

## **Questions and Answers About Medical Resident FICA Refund Claims**

**1. What are FICA taxes?**

FICA stands for the Federal Insurance Contributions Act. FICA taxes consist of two separate taxes, social security and Medicare taxes that are paid on wages earned for services performed. Employers withhold and pay their employees' share of the FICA taxes and also pay the employer share.

**2. Why are FICA refunds being paid to medical residents and their employers?**

Employers (typically hospitals and medical schools) and individual taxpayers (medical residents) began filing FICA refund claims in the 1990's, based on their position that medical residents are students eligible for the FICA tax exception under Internal Revenue Code section 3121(b)(10). This is referred to as the *student exception* and may apply to a student at a school, college or university who is also an employee of that school, college or university. The employer's FICA refund claims were for both the employer share and the employee share of the FICA tax. In some cases, individual medical residents filed their own claim for the employee share of the FICA tax. The IRS held the claims in suspense because there was a dispute as to whether the student FICA exception applied. The IRS has made an administrative determination to accept the position that medical residents are excepted from FICA taxes for tax periods ending before April 1, 2005, when [new IRS regulations](#) went into effect.

**3. Who is eligible to receive a refund?**

Institutions that employed medical residents and individual medical residents are eligible to receive refunds if they are covered by timely filed FICA refund claims. Institutions can be covered under FICA refund claims they filed themselves. Individual medical residents can be covered under FICA refund claims they filed themselves or under claims filed by the institutions that employed them. These refund claims are subject to the same requirements that apply to all FICA refund claims including verification by the IRS of the amount of the claim and payment of interest.

**4. Can a FICA refund claim still be filed for periods before April 1, 2005?**

No. The period of limitations for filing a claim for tax periods before April 1, 2005 has expired. If you are or were a medical resident, and you did not file an individual FICA refund claim, you may be covered by a FICA refund claim filed by your employer for the period you were a medical resident. You would need to contact your employer (or former employer) to see if they filed a FICA refund claim.

**5. What is the significance of April 1, 2005?**

On April 1, 2005, [new regulations](#) regarding the student FICA exception became effective. One part of these regulations states that an employee who works 40 hours or more (full-time employee) for a school, college or university is not eligible for the student exception. This part of the regulations excludes medical residents from the student exception.

**6. If I filed a claim, what should I do?**

Do not take any action at this time. The IRS will be sending each employer and individual medical resident who filed a FICA refund claim information within the next 90 days. This information will explain the actions you must take to receive your refund.

**7. If I am covered under a claim that my employer filed, do I need to do anything at this time?**

No. You can expect your employer to be in touch with you about the refund process. You will not be hearing from the IRS directly.