

IRS Settling Up With Medical Residents on FICA Refund Claim

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Physicians take an important step in their career when they become medical residents in that they start to be paid for their work. While the pay is not spectacular, it is a welcome change from the financial bleeding they endure in the medical school years. In the late 1990's, some creative-thinking medical schools and subsequently medical residents applied for refunds of FICA taxes they paid on the grounds that medical residents were 'students' under Internal Revenue Code section 3121(b)(10). This exception to paying the 7.65% FICA tax applies to students at a school, college or university who are also employees of that institution.

The IRS paid some of these claims, but the financial impact of paying the claims and the ambiguity in the definitions involved in the claims led to almost ten years of tax court arguments. During this process, the Internal Revenue Code changed its definitions for the student exception effective April 1, 2005, when medical residents were more or less specifically excluded.

The courts and IRS resolved the issues surrounding the FICA claims in early 2010 and started contacting hospitals, universities, and medical residents who filed FICA refund claims for the periods prior to April 1, 2005.

Who Will Receive Refunds?

Because of the significant delays in the tax court, refunds will not be paid to all medical residents; however, most eligible institutions filed refund claims for the affected years, thereby preserving the right to refunds for the respective school's former medical residents. The Supreme Court however affirmed in January 2011 that medical residents will be treated as full-time employees and subject to all payroll taxes (including FICA and Medicare) effective April 1, 2005.

How Will Former Medical Residents Receive Refunds?

Former medical residents who filed valid refund claims for periods prior to April 1, 2005, will be contacted by the IRS at their most recent address reported on their federal income tax returns. While some residents filed these claims, many did not because the IRS began blanket denial of these claims starting around 2002.

While former residents may have lost out on the opportunity for filing a claim for themselves, they will still be covered if their respective medical school filed a valid and timely claim. Our experience is that most larger institutions filed these claims each year and are therefore now in the process of going through the refund process for the institutions and their former students and contacting alumni on the steps needed to get a refund.

More information?

The IRS website has general information [here](#) and FAQ's [here](#). Please contact Michael Burzynski at mburzynski@komisarbrady.com if you want more information or have questions about your specific situation.

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