

Status of FICA Refund Claims For Medical Residents

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History of the Debate



We wrote an article in 2010 and updated it in January 2011 regarding the possibility of FICA refunds for medical residents. Over the past ten years there has been a continuing battle between medical residents and the federal government over whether or not medical residents are considered “students” under the Internal Revenue Code. “Student” status would enable residents to receive FICA tax refunds for the 7.65% that was withheld from their payroll checks. Fortunately, the litigation has finally ended and the issue has been settled.

The Tax Courts and IRS resolved the issues surrounding the ongoing dispute over 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. April 1, 2005 marked the period in which new regulations regarding the student FICA exception became effective. In January of 2011, the United States Supreme Court upheld the decision on FICA refund claims. However, these refunds will not be automatically distributed. The refunds will need to be applied for and the IRS has stated that refunds should not be expected until at least April of 2012.

How to Get a Refund

While most physicians are no longer eligible to receive a refund under their own individual filing due to the statute of limitations, many large schools, hospitals, and universities filed a protective claim for a several tax years. This means that most individuals will be covered under a claim filed by their medical school. For example, the Medical College of Wisconsin successfully filed a protective claim for all of its residents for the years 1997-2003 and 2005 ([MCW - Resident Refund Article](#)). UW Health filed a protective claim beginning in 2001 and ending in 2004. ([UW Health FAQ](#))

We recommend that prior medical residents contact their former universities and give consent to receive their FICA refund if they paid in FICA tax during the years listed above. The easiest way to tell if you qualify is to do a quick internet search for “*FICA refund resident + {the name of your residency program/school}*”. While the process is relatively simple for individuals, it may take up to several months to receive your refund check in the mail. Therefore, we advise that you act as soon as possible.

More information?

The IRS website has general information [here](#) and FAQ’s [here](#) . Please contact Michael Burzynski (mburzynski@komisarbrady.com) or Carly Bruskievicz (cbruskiewicz@komisarbrady.com) should you have any questions on your specific situation.

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