

Medical Resident Medicare Tax Refund Claims University of California

January 9, 2011

On March 2, 2010, the Internal Revenue Service (IRS) announced that it will refund the employer and employee portion of FICA taxes paid for medical residents **prior to** April 1, 2005, so long as the employer previously filed a timely refund claim with the IRS. The University of California has already made the requisite filings on behalf of its medical schools, medical centers, and residents for tax periods dating back to January 1, 1995.

Background

FICA is a two-part tax consisting of Social Security (6.2%) and Medicare (1.45%). Please note that the University of California medical residents, and other non-career employees, pay only the 1.45% Medicare portion of the tax and do not pay the 6.2% Social Security portion of the tax. Consequently, any refunds received by the University and its medical residents will be limited to the 1.45% Medicare portion of the tax paid by the University and the 1.45% portion paid by the resident (i.e., the total amount eligible for refund is 2.90%). The IRS will also pay the statutory rate of interest on the total amount refunded.

Because of the former IRS position that medical residents were not eligible for the student FICA exception, the refund claims filed by the University since 1995 were made based on the estimated Medicare taxes paid by the University and its residents. These claims will now have to be perfected to reflect the actual Medicare taxes paid, as supported by statements signed by current and former residents (see below).

Next Steps

The IRS contacted the University in July to provide further instructions regarding the refund process. The University will be required to do a significant amount of work to quantify the actual Medicare taxes paid by the over 4,500 residents employed each year since 1995 by the five UC medical schools campuses—Davis, Irvine, Los Angeles, San Diego, and San Francisco.

As part of this process, each resident eligible for a Medicare tax refund will have to sign a written statement (i) authorizing the University to seek the refund on his or her behalf, (ii) certifying that he/she has not already claimed a refund of (or credit for) the Medicare tax, and (iii) attesting that he/she will not separately make a claim to the IRS for refund of (or credit for) the Medicare tax in the future. **A mailing was sent to the eligible residents in early 2011 with this information. These individuals were provided 45 days to return the signed consents to the University.**

After the 45-day period, the University submitted its refund claim to the IRS in early July, 2011. The IRS is now in the process of reviewing its records to verify the accuracy of the

Medicare taxes paid by the University and each resident. The IRS has not provided any information to the University on when the refunds will be issued. After the University receives the IRS refund, each campus will begin the process of issuing a refund, plus interest, to each qualifying medical resident. We will periodically update this website with the status of the refunds

Frequently Asked Questions and Answers

Why are the Medicare refunds being paid to medical residents and the University?

The IRS has made an administrative determination to accept the position that medical residents are exempt from FICA taxes for tax periods ending before April 1, 2005, when new IRS regulations went into effect. The IRS concluded that wages earned by medical residents prior to April 1, 2005 will be exempt from FICA taxes under the student exception applicable to other students employed by a school, college, or university.

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.

Why is the University claiming Medicare refunds only back to 1995?

Hospitals, medical schools, and individual medical residents began filing FICA refund claims in the late 1990's in response to an 8th Circuit Court of Appeals ruling that held medical residents were students eligible for the FICA tax exception under Internal Revenue Code section 3121(b)(10) (Minnesota v. Apfel, 8th Cir. 1998). Based on this ruling, the University filed its first refund claim in 1998 for calendar year 1995 and has subsequently filed a claim with the IRS every year prior to the expiration of the statute of limitations.

Can a Medicare 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 were employed **by the University** as a medical resident between January 1, 1995 and April 1, 2005, and you did not file an individual Medicare refund claim, you should be covered by a Medicare refund claim filed by the University for this period.

What is the significance of April 1, 2005?

On April 1, 2005, the IRS regulations regarding the student FICA exception became effective. One part of these regulations states that an employee who works 40 hours or more (i.e., a 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. On January 11, 2011, the United States Supreme Court ruled unanimously in *Mayo Foundation for Medical Education and Research et al v. United States* (107 AFTR 2d 2011-341) by upholding the IRS regulations issued in 2005, and stated that medical residents, as full-time employees of the hospitals at which they work, are ineligible for the IRC section 3121(b)(10) student FICA exemption. Thus, medical residents were ineligible for this exemption *after* April 1, 2005.

Will Medicare taxes continue to be withheld from my paycheck?

Yes. If you are currently employed by the University as a medical resident, Medicare taxes will continue to be withheld from your payroll checks because of the IRS regulations that require such withholding.

Will my refund be taxable?

The Medicare portion of the refund will not be subject to Federal or California income taxes. The interest portion of the refund will be taxable, however, and will be reported to the IRS on Form 1099-INT if you receive \$600 or more in interest.

If I am covered under a claim the University filed, do I need to do anything at this time?

No. If you were in our database of medical residents eligible to receive this refund, we would have already sent you a consent form to sign and complete. The period for returning completed consent forms has passed.

Please contact John Barrett at: john.barrett@ucop.edu if you have any further questions.