

## Frequently Asked Questions Regarding Medical Resident FICA Tax Refunds

### ❑ What does the IRS Announcement mean to me?

On March 2, 2010, the IRS announced that it had made an administrative determination to accept the position that medical residents are excepted from FICA taxes based on the student exception for tax periods ending before April 1, 2005, when new IRS regulations went into effect. This announcement means that the IRS will provide a refund of the FICA taxes for individual medical residents and institutions that timely filed refund claims for tax periods ending before April 1, 2005. The IRS has contacted PENN regarding the FICA tax refund claims we filed for tax periods ending before April 1, 2005. PENN is in the process of responding to an IRS letter dated May 25, 2010 that outlines the procedures required to be completed prior to obtaining any refund. PENN is in the process of preparing the information necessary to respond to this letter in a timely manner and will be posting updates periodically on this webpage regarding the FICA tax refund process.

The IRS Announcement appears on the IRS website at:  
<http://www.irs.gov/charities/article/0,,id=219548,00.html>

### ❑ As an intern, resident or fellow, am I eligible for a FICA tax refund pursuant to the claims filed by PENN?

PENN has no reason to believe that interns, residents and fellows employed by PENN would not be eligible for a FICA tax refund pursuant to the FICA tax refund claims PENN timely filed for periods prior to April 1, 2005. However, in order to obtain your share of FICA tax, you must consent to allow PENN to obtain your share of refundable FICA taxes. If you have not yet returned the consent package that was previously mailed to you, please do so as soon as possible. If you did not receive a consent package, please send us an email at [FICA@exchange.upenn.edu](mailto:FICA@exchange.upenn.edu). Include your name, last four digits of your social security number (for privacy purposes, do not provide your entire social security number), telephone number, and years of residency or fellowship in your email message.

### ❑ As an intern, resident or fellow, for what time periods am I entitled to a FICA tax refund under the claims filed by PENN?

Eligibility to be covered under refund claims filed by PENN is limited to those individuals who were interns, residents or fellows during the period from January 1, 1995 through March 31, 2005.

### ❑ Is there a cost to me for consenting to having PENN obtain my share of FICA taxes paid with respect to my residency?

If you consent to have PENN obtain your refundable share of FICA taxes on your behalf, there is no cost to you.

### ❑ Can I still apply for a FICA tax refund for tax periods prior to April 1, 2005?

Unless you previously timely filed an individual FICA tax refund claim on your own, the statute of limitations has expired for FICA tax refunds for tax periods prior to April 1, 2005. However, as discussed above, with your consent, the applicable refund procedures allow PENN to obtain your share of refundable FICA taxes pursuant to the timely filed refund claims filed by PENN for periods prior to April 1, 2005.

You should consult your tax professional if you have further questions regarding this issue.

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### ❑ What was the basis for these medical resident FICA tax refund claims?

The medical resident FICA tax refund claims stem from a decision of the U.S. Court of Appeals for the Eighth Circuit in 1998 in *State of Minnesota v. Apfel* which held that stipends paid to University of Minnesota medical residents in 1995-96 were not subject to FICA tax as a result of the student FICA exception. Since the decision of the Eighth Circuit in 1998, other U.S. Courts of Appeals have rendered decisions regarding medical residents' eligibility for the student FICA exception and all have held that medical residents are or could be eligible for the student FICA exception. Based on this extensive litigation, which has generally been decided in the favor of institutions employing medical residents, the IRS finally conceded in its Announcement (IR 2010-25) on March 2, 2010 that it would accept the position that medical residents qualified for the student FICA exception for periods prior to April 1, 2005.

### ❑ Will FICA taxes be withheld from my paycheck going forward?

Yes. The IRS has not accepted the position that medical residents are excepted from FICA taxes based on the student exception for tax periods ending after April 1, 2005.

In response to the litigation regarding the eligibility of medical residents to qualify for the student FICA exception, the IRS amended its regulations in 2004 (effective April 1, 2005) so that medical residents could not qualify for the student FICA exception - based on the application of the "full-time employee" limitation. On June 12, 2009, the U.S. Court of Appeals for the Eighth Circuit, in *Mayo Foundation for Medical Education and Research v. United States*, upheld the "full-time employee" limitation in the final amended regulations effective April 1, 2005 under the student FICA exception. Based on the application of the "full-time employee limitation," medical residents are generally unable to qualify for the student FICA exception. This issue is still being litigated. Most recently, on June 1, 2010, the U.S. Supreme Court decided that it would review the issue of whether the "full-time employee" limitation is valid.

Accordingly, FICA taxes will continue to be withheld from any residency, internship and/or fellowship earnings. Further questions about FICA withholding on future earnings should be directed to the administrator of your residency, internship and/or fellowship program.

### ❑ Who should I contact with any questions?

If you have any questions, you may email [FICA@exchange.upenn.edu](mailto:FICA@exchange.upenn.edu). Include your name, last four digits of your social security number (for privacy purposes, do not provide your entire social security number), telephone number, and years of residency or fellowship in your email message. Your inquiry will be answered by email as soon as possible. We will also update information on this webpage, including these frequently asked questions, with any additional information as the refund claim process progresses.

### ❑ What should I do if I move while the refund process is still ongoing?

It is anticipated that the refund process may take at least several months. As a result, if your mailing address changes, please provide any new mailing address information to us at: [FICA@exchange.upenn.edu](mailto:FICA@exchange.upenn.edu).

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- ❑ **Once the IRS provides the FICA tax refund, when can I expect to receive my share of any refund?**

Once the claims process is completed, the IRS will send the aggregate refund to PENN. The amount refunded to PENN will only include the employee share of FICA taxes for those residents who consented to PENN's refund claim. Although we do not know how long it will take for the IRS to administer the refund claim, once PENN's claim is allowed, we will send those residents who consented to PENN's refund claim a check for their share of the FICA tax refund in a timely manner.

- ❑ **If I do receive a FICA tax refund, do I need to pay taxes on it?**

Should you receive a FICA tax refund, the refund is not subject to federal income tax.

However, the IRS intends to pay interest on your share of the FICA tax that is refunded. The interest paid by the IRS on your share of the FICA tax refund is subject to tax in the year it is received. You will be provided a 1099-INT if more than \$600 in interest is paid in the calendar year. You should contact your tax professional for more information on this subject and to discuss your specific tax situation.

- ❑ **If I do receive a FICA tax refund, how does this affect my eligibility for and calculation of social security benefits?**

Your eligibility for and calculation of social security benefits (either current or future) may be affected in the event of a refund, depending on your personal circumstances. If you consent to the refund claim, you will be issued a Form W-2c which will reflect a reduction in your earnings for social security benefits purposes. Whether social security benefits that you are receiving currently or in the future are impacted by a reduction of wage credits as a result of the refund will depend on your particular facts and circumstances. You should contact your local Social Security Administration office with any questions regarding your particular situation.