

Questions and Answers about Medical Resident FICA Refund Claims

The IRS has received a number of questions about filing claims for refunds of FICA taxes paid by exempt institutions in connection with the compensation of medical residents.

1. What are FICA taxes?

FICA stands for the Federal Insurance Contributions Act. FICA taxes are comprised 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 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.

7. Has the IRS sent information to employers who filed Medical Resident FICA Refund Claims?

Yes. The IRS began mailing Letter 4608, *Medical Resident FICA Refund Claims, Employer Notification*, to employers with pending claims on May 25, 2010.

8. Has the IRS sent information to medical residents who filed individual MR claims?

Yes. The IRS began mailing Letter 4610, *Medical Resident FICA Refund Claims, Employee Notification*, at the end of July 2010.

9. Who should I contact if my institution filed MR claims for tax periods ending before April 1, 2005, but has not received a letter from the IRS?

If the IRS has a record of the institution's pending MR claims, the institution should receive a letter after May 25, 2010. If the institution has not received its letter by June 15, 2010, please call 1-877-767-2501 (toll-free) Monday through Friday, 10:00 a.m. to 6:00 p.m. Eastern Time.

10. Will an institution with a pending suit involving Medical Resident FICA receive information from the IRS?

No. The Department of Justice attorney assigned to your case will contact you.

11. Why is it necessary to send the IRS a letter confirming that our institution's previously filed Form 2848, Power of Attorney and Declaration of Representative, is correct?

Because many institutions have pending MR claims that cover a 10-year period, the IRS wants to ensure it has accurate [Forms 2848](#) on file. As stated in Letter 4608, sending the IRS a letter either confirming your representation or indicating that you will not be represented by a third party is required; a newly completed Form 2848 is not.

12. Must an institution file Form 8821, *Tax Information Authorization*, if it has different representatives for different tax periods?

No. A [Form 8821](#) is not required, but delays in processing the institution's MR claims may occur if it does not file Form 8821. Therefore, the institution may want to file Form 8821 to consent to the limited disclosure of return and return information to each representative for the periods for which they do not represent the institution. Specifically, the institution may want to consent to the disclosure of Forms 843, 941, and 941c filed for any of the periods before April 1, 2005 for which an MR claim was filed and any return information related to those returns or refund claims. Form 8821 and its instructions are included on the CD you received with Letter 4608.

13. What should the institution do if it is unable to send its representation information by the response due date shown on Letter 4608?

If you need additional time to reply, call 1-877-767-2501 (toll-free).

14. Must the institution use the IRS supplied sample letter and consent form to solicit consent from its affected medical residents?

No. You are not required to use the samples provided on the CD. The sample documents are provided for your convenience and include language that will allow you to make the required certifications on Form 941c. In addition, the sample letter includes information that should be communicated to the affected residents concerning their social security benefits.

15. Does the institution need to get new consents if it previously solicited consents from affected medical residents?

No. If you have already solicited consents, a new solicitation is not required. However, as explained in Publication 4843-A, *Instructions for Medical Resident FICA Refund Claims*, under “Obtain Employee Statements and Consents,” you should inform medical residents that receipt of the refund may affect their social security benefits because their social security earnings record will be reduced by the amount of wages on which a refund is paid.

16. Who should I contact if I filed individual MR claims for tax periods ending before 2005, but I have not received a letter from the IRS?

If you filed individual MR claims for tax periods ending before 2005, and you do not receive a letter from the IRS by August 16, 2010, send a copy of your original claim, proof of timely mailing, and [Form 2848](#), *Power of Attorney and Declaration of Representative* (if you want to authorize an individual to represent you with respect to your medical resident claims) to:

Internal Revenue Service
P.O. Box 12220
Ogden, UT 84412

If you prefer, you can fax the information to 801-620-3113. Be sure to include a telephone number and the best time to call.

Additional information:

Form 2848 [instructions](#)

17. What should I do if I am unable to send the required additional information by the response due date shown on Letter 4610?

If you need additional time to reply, call 1-877-301-5153 (toll-free) or fax an extension request to 801-620-3113 (not a toll-free number). Your extension request should indicate that you are requesting additional time to respond to Letter 4610 and include your name, social security number and a telephone number where we can reach you.

18. What should I do if I filed an individual MR claim and also gave my employer written consent to obtain a refund on my behalf of the employee share of the FICA tax for the same tax period?

The IRS will consider only one claim for each tax year. If you want your employer to obtain your refund on your behalf, you must withdraw your individual MR claim. Letter 4610 explains how to withdraw your claim. If you do not want your employer to claim a refund on your behalf, notify your employer in writing that you are retracting your previously given consent.

19. Is my refund taxable?

Your refund will include your share of the FICA taxes plus interest. The refunded FICA taxes are not taxable; however, the interest portion of the refund is taxable to you. The interest is taxable whether or not you receive a [Form 1099-INT](#), *Interest Income*, and must be reported on your individual income tax return.

Additional information:

[Instructions](#) for Forms 1099-INT and 1099-OID

20. I recently heard about the Medical Resident FICA Refund Program. How do I apply?

The IRS will not accept a new claim for refund for FICA taxes for tax periods ending before April 1, 2005, because the period of limitations for filing a claim has expired. If you were a medical resident prior to April 1, 2005, and did not file an individual FICA refund claim, contact your employer (former employer) to see if you are covered by a FICA refund claim your employer filed. If neither you nor your employer (former employer) filed a refund claim before the expiration of the period of limitations, you cannot receive a Medical Resident FICA Refund.

21. Can I appeal the decision that new claims cannot be filed?

No. The time period for filing a refund claim is set by law.

22. Why doesn't every hospital and its residents get refunds for tax periods before April 1, 2005?

The following are the most common reasons an employer or medical resident may not qualify for a refund:

- You did not file a timely claim for refund. (The period of limitations for filing a claim for tax periods before April 1, 2005 has expired.)
- You are not eligible for the student exception to FICA taxes because you were employed by a federal employer, such as a Veterans Administration hospital.
- You were a state or local government employee covered by a voluntary agreement (Section 218 Agreement) between the state and the Social Security Administration (SSA) to provide social security coverage for workers. If your position was covered by a Section 218 Agreement, and the agreement did not include an exception for students then your wages were properly subject to social security and Medicare tax

23. I was a medical resident who did not file an individual refund claim and was not included on my employer's timely filed claim. I have been told that final action has been taken on that claim. How can I receive my share of the refund?

Final action on a claim occurs when the IRS has evaluated the claim and notified the employer of its determination whether to allow or disallow the claim. Once final action has been taken on the claim, the claim can not be amended to include additional medical residents. Your employer can tell you whether you were included on their timely filed claim. However, if you were not included on your employer's timely filed claim, for whatever reason, the IRS is no longer authorized to pay additional refunds. The period of limitations for filing a claim for tax periods before April 1, 2005 has expired so new refund claims can not be filed.

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