



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear \_\_\_\_\_ :

This letter responds to your request for information dated October 2, 2012. You indicate that you qualify for a refund of Federal Insurance Contributions Act (FICA) taxes on wages you earned for services performed as a medical resident for from 1997-2001. You indicate that \_\_\_\_\_ filed refund claims on your behalf. You ask about the length of time it takes for the IRS to process your refund.

Section 3121(b)(10) of the Internal Revenue Code provides that certain services students perform are excepted from FICA taxes. The student FICA exception applies only to services performed for an organization that has the status of a school, college, or university (SCU), and only if the student who performs the services is enrolled and regularly attends classes at that SCU.

Our long-held position is that the student FICA exception does not apply to services that individuals performed as medical residents. However, in the wake of extensive litigation, we made an administrative determination on March 2, 2010, 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 regulations clarifying this issue went into effect.

As a result of this administrative determination, institutions that employed medical residents and the individual medical residents are eligible to receive refunds if covered under a timely filed FICA refund claim. Institutions can be covered under FICA refund claims they filed. Individual medical residents can be covered under FICA refund claims institutions filed on their behalf or under FICA refund claims they filed themselves.

I understand your concern with the timeline for processing your refunds. We intend to pay these claims as soon as possible. However, these claims are subject to the same procedural requirements that apply to all FICA refund claims employers file, including

certifications on the employee share of the tax, and verification by the IRS of the timeliness and the amount of the claim.

We have taken steps to make this refund process as efficient as possible. These steps include processing all medical resident FICA refund claims in one location and processing all refund claims of an employer at one time. The law provides that we will pay interest on the refunds.

Because receipt of a FICA refund will cause a decrease in the medical residents' earnings record with the Social Security Administration for the refunded periods, we are coordinating with the Social Security Administration so that it can ensure that residents (or their beneficiaries) who are currently receiving Social Security benefits understand the potential impact on their social security benefits before they receive their refunds.

Given the large number of claims we must process as well as the number of steps involved, we are processing the refunds as quickly as possible. Unfortunately, we are unable to provide a timeline for when the refund will be paid.

I hope this information is helpful. If you have any additional questions, please contact  
of this office at .

Sincerely,

Paul J. Carlino  
Branch Chief, Employment Tax Branch 1 (Exempt  
Organizations/Employment Tax/Government  
Entities)  
(Tax Exempt & Government Entities)