



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 February 25, 2014 letter to IRS Chief Counsel William J. Wilkins. You requested information on the refund of Federal Insurance Contributions Act (FICA) taxes on wages you earned for services performed as a medical resident for the period from July 1, 2002 until June 30, 2003.

Due to disclosure and privacy laws, we are prohibited from providing specific tax or taxpayer information regarding your medical residency employer to anyone other than the taxpayer or the taxpayer's authorized representative. However, to assist you, we can provide some general information which we hope will be helpful.

Services performed by students are excepted from FICA taxes under section 3121(b)(10) of the Internal Revenue Code (the student FICA exception). 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.

On March 2, 2010, we made an administrative determination to accept the position that medical residents are excluded from FICA taxes based on the student FICA exception for tax periods ending before April 1, 2005, when new regulations 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 filed on their behalf by institutions or under FICA refund claims they filed themselves.

In general, taxpayers must file claims for credit or refund within 3 years from the time they file the return or 2 years from the time they pay the taxes, whichever date is

later. For FICA tax refunds, the relevant return is generally the employer's Form 941, Employer's QUARTERLY Federal Tax Return. The law deems a Form 941 that an employer files before April 15 of the succeeding calendar year as filed on April 15 of the succeeding calendar year. Similarly, the law also deems any FICA tax an employer paid during this period as paid on April 15 of the succeeding calendar year.

Taxpayers cannot receive refunds of tax after the expiration of the period of limitations unless they have timely filed a claim for credit or refund before the expiration of the period of limitations [Treasury Regulation section 301.6402-2(a)(1)].

The deadline for filing a refund claim for periods ending before April 1, 2005, has expired. If you did not timely file an individual refund claim, you are only eligible for a refund of the FICA taxes on wages earned for services performed as a medical resident for periods ending before April 1, 2005, if your residency employer timely filed a refund claim on your behalf.

As stated above, we are prohibited from providing specific information regarding your medical residency employer to anyone other than the taxpayer or the taxpayer's authorized representative. You should contact your medical residency employer for information on whether it timely filed a refund claim on your behalf.

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

Sincerely,

Paul J. Carlino  
Branch Chief, Employment Tax Branch 1  
Office of the Division Counsel/Associate Chief  
Counsel (Tax Exempt & Government Entities)