

Medical Resident FICA Refund Claims (MR Claims)
Questions and Answers
Updated May 26, 2010

1. What are FICA taxes?

FICA stands for the Federal Insurance Contributions Act. FICA taxes consist 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 (MR 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?

No. The IRS will begin sending Letter 4610, *Medical Resident FICA Refund Claims, Employee Notification*, to medical residents who filed individual claims after we send letters to all employers that filed MR claims.

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 the institution 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.

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.