



University at Buffalo
The State University of New York

Office of Graduate Medical Education and Resident Services
School of Medicine and Biomedical Sciences

FINAL NOTICE

December 17, 2010

RE: Refund Claim of FICA Taxes Paid During Your Medical Residency

Dear Doctor:

I hope this letter finds you well both personally and professionally.

University Dental Resident Services, PC¹ is in the process of filing a refund claim of FICA taxes paid in connection with your wages earned during your medical residency. However, in order for you to join the claim, we **must** have a signed consent form from you.

Deloitte Tax LLP has been engaged by University Dental Resident Services, PC to provide assistance in connection with this refund claim. As such, if you have any questions about the claim, please email or fax them directly to Deloitte rather than contacting University Dental Resident Services, PC.

Deloitte's Contact Information:

- Email at: SUNYFICA@DELOITTE.COM
- Fax at: **585-295-5907**

A consent package was mailed to you by Deloitte Tax LLP on September 9th, 2010 with an original due date of October 30th, 2010. A follow up letter was sent to you on November 3rd, 2010. If you receive this letter and have already provided Deloitte with a signed consent form and have received an e-mail confirmation, please disregard this letter as you have already consented to participate in the refund claim process.

I encourage you to carefully review the information contained in the consent package, and consult with your personal tax adviser. If you agree to the terms of the consent, please return your signed consent form to Deloitte **as soon as possible** and no later than **January 5, 2011**. Please note that there are no guarantees that additional extensions of time will be available.

Best Regards,

Donna M. Cummiskey
Director, GME Resource Management

¹ As referred to herein, University Dental Resident Services, PC is an employer of medical residents enrolled in University at Buffalo sponsored residency programs.



December 17, 2010

Re: Notice of opportunity to participate in Medical Resident FICA Refund Claim

IRS's administrative determination to accept the position that medical residents are "students" excepted from FICA taxes for services provided prior to April 1, 2005

Dear Sir or Madam,

Please be advised that Deloitte Tax, LLP has been retained by University Dental Resident Services, PC² to pursue FICA tax refund claims for services provided prior to April 1, 2005. In the course of our work with the representatives of University Dental Resident Services, PC, we have been provided with your name, contact information and stipends paid to you so that we could pursue these claims. Although we have been working with University Dental Resident Services, PC for a number of years on this effort, it was only recently that the IRS announced that it would honor such claims. Hence, we are contacting you now to provide important information so that you can choose whether to participate in the refund claims process.

This letter includes important information about certain taxes you paid during your medical residency, which may be refundable to you should you choose to participate in the refund claim filed by University Dental Resident Services, PC. To participate in the refund claim, you must take timely actions outlined in this letter. If you choose to take no action, taxes paid by you will not be refunded under this claim.

As you may know, University Dental Resident Services, PC filed claims for refund of social security and Medicare taxes paid on wages earned for services performed by medical residents for tax periods beginning January 1, 1996 and ending March 31, 2005. These taxes are Federal Insurance Contributions Act (FICA) taxes and the claims are referred to as Medical Resident FICA Refund Claims (or MR claims).

On March 2, 2010, the IRS announced it would honor the MR claims. After we perfect our MR claim(s), the IRS will verify the amount of the MR claim(s) and begin issuing refunds plus statutory interest. **We cannot receive a refund of the FICA taxes that were withheld and paid on your behalf unless we have your written consent.** If you do not consent to have University Dental Resident Services, PC obtain your refund, you may be precluded from receiving any refund of the FICA taxes withheld and paid on your behalf because the time period for filing an individual claim for refund with the IRS may have expired.

² As referred to herein, University Dental Resident Services, PC is an employer of medical residents enrolled in University at Buffalo sponsored residency programs.

If you consent, University Dental Resident Services, PC will remit to you your share of the FICA tax refund, plus statutory interest that it receives on your behalf from the IRS. Such receipt and distribution is anticipated to take several months or more as University Dental Resident Services, PC must prepare the documentation required by the IRS with respect to these claims and the IRS will review the submission before the claim is processed for refund. The FICA tax refund is not taxable; however, the interest on the refund is taxable to you whether or not you receive a Form 1099-INT, Interest Income. University Dental Resident Services, PC is required to file Form 1099-INT with the IRS and furnish a copy to you if we pay you interest of \$600 or more in a calendar year.

In addition, if you consent to participate in the MR claim(s), University Dental Resident Services, PC will file Form W-2c, *Corrected Wage and Tax Statement*, with Social Security Administration (SSA), and furnish a copy to you for each tax year for which you receive a refund of FICA taxes. In most cases, Form W-2c will show a reduction in your earnings for social security coverage purposes in an amount equal to all the wages you were paid for services performed as a medical resident. Social security benefits are based on your earnings over your working lifetime. Accordingly, based on your personal circumstances, a refund could have a detrimental effect upon disability, survivors, or retirement benefits that you, or your family, are receiving or may seek to receive in the future. If you want information about the effect on your social security benefits, you should contact SSA directly at 1-800-772-1213 (toll free). If you call or visit a Social Security office, please have this letter with you. It will help SSA answer your questions. You might want to review your social security record before and after your refund has been processed. You can use your current Social Security Statement or you can request a copy of your Social Security Statement at the following website: <http://www.ssa.gov/mystatement>.

To consent to receive your share of the refund from University Dental Resident Services, PC, you must complete the enclosed consent form and send it to University Dental Resident Services, PC as indicated at the bottom of the consent form. We ***must*** receive your consent form no later than January 5, 2011.

Please include your e-mail address on the consent form provided, so that we may send you an email confirmation. You will receive an emailed confirmation of your consent within 3 business days of receipt. If you have not received your expected confirmation within 3 business days, you may send an inquiry via email to sunyfica@deloitte.com. Please provide Deloitte with a phone number where we can reach you in case we have questions regarding your consent. Please submit your consent form only once, do not send unsolicited duplicate consents.

If you have already claimed and received a refund or credit for FICA taxes that were withheld from medical resident wages, or if you filed an individual refund claim for such FICA taxes and that claim is still pending with the IRS, then we will not be able to file your MR claim for the year(s) that you received a refund or credit or have a pending refund claim. This restriction does not apply if you filed a refund claim and it was rejected by the IRS. If we can file your MR claims for some years, but not others, check your consent form as "Yes" for the years you are eligible or leave blank any years for which you are not eligible.

If you consent to be part of University Dental Resident Services, PC MR claim(s) and the IRS determines that you are ineligible for a refund because you already received a refund based on an individual claim you filed, the IRS will not refund your share to us and this information may be disclosed to us.

NAME CHANGE OR DEATH

If your name has changed since your residency, please provide legal documentation as to your name change (e.g. marriage certificate, divorce decree, etc.) with your signed consent form.

If you are the personal representative of a deceased resident, please provide a copy of the death certificate as well as legal documentation as to your authority to represent the estate of the deceased resident.

DIRECT GENERAL QUESTIONS ON THIS INITIATIVE TO DELOITTE TAX LLP

Neither University Dental Resident Services, PC, nor Deloitte Tax, can advise you whether or not you should consent to participate in the refund claim, nor can we provide you with tax, legal, accounting or financial advice. We encourage you to discuss questions about your particular situation with your tax preparer or other personal financial advisor.

It is unclear how long it will take the IRS to refund FICA taxes to us. As a result, we do not know how long it will take for FICA refund payments to be made to consenting residents. This process may take several months, perhaps even more than a year. We thank you in advance for your patience as we finalize these refund claims.

For general updates, please visit our website at www.smbs.buffalo.edu/GME/. For general procedural questions on this initiative that are not answered through the enclosed frequently asked questions, you may contact Deloitte Tax LLP by email at sunyfica@deloitte.com.

ADDRESS UPDATES

If your address as shown on this consent letter is incorrect, please provide your current address on your returned consent form. If you move after your consent form is submitted, and before you receive a refund check, send address updates to Deloitte Tax LLP by email to sunyfica@deloitte.com. Please note that all requests to change your mailing address must include the last four digits of your Social Security Number so that we can verify that the request is coming from you.

Please note that keeping your address information current is your responsibility. Failure to provide your current address could result in delay of delivery of your refund check or return of your check as undeliverable. Remember that this refund process may take more than a year to resolve.

If you have any questions about this letter, please contact Deloitte Tax LLP at sunyfica@deloitte.com.

Very truly yours,

Thomas R. Kromer, CPA
Tax Director



Enclosures

**** CONSENT FORM – MEDICAL RESIDENT FICA TAX REFUND CLAIM ****

NAME: _____

ADDRESS: _____

My signature herewith affirms my acknowledgement and consent to participate in the refund claim for FICA taxes withheld from residency wages for the noted period during which I was enrolled in this medical residency program. Select **ONLY ONE** of the following:

I consent to the Social Security and Medicare tax (FICA) refund filed or to be filed on my behalf for **only noted years** indicated herein during which I was a resident. [Check the appropriate box(es), as applicable]

| | | | | |
|-------------------------------|-------------------------------|-------------------------------|-------------------------------|---|
| | 1997 <input type="checkbox"/> | 1998 <input type="checkbox"/> | 1999 <input type="checkbox"/> | 2000 <input type="checkbox"/> |
| 2001 <input type="checkbox"/> | 2002 <input type="checkbox"/> | 2003 <input type="checkbox"/> | 2004 <input type="checkbox"/> | 2005 1 st quarter <input type="checkbox"/> |

I do not consent.

For each year of consent, I represent that (1) I have not claimed and will not claim refund or credit from the IRS for such over- collected FICA taxes from wages paid for my performance of services as a medical resident, or, if I have, that claim has been rejected, (2) I did not receive a FICA tax refund or credit, due to earnings in excess of the Social Security wage based on my Federal Income Tax return (e.g. Form 1040), and (3) I understand that my Social Security earnings record will be corrected to reflect reduced wages as a medical resident for tax years for which I receive a refund. I understand that removing these wages could affect my eligibility for, or the amount of, future Social Security benefits.

Date

Signature

Social Security Number (**required**)

Daytime phone number (if we have questions)

Email address (required for confirmation)

MUST BE SENT BY E-MAIL OR FAX BY JANUARY 5, 2011.

Please keep a copy of your signed consent form for your records. Return your signed consent form, along with any required legal documentation for name changes or death, to:

- Email at sunyfica@deloitte.com
- Fax at: **585-295-5907**

NOTE: If your address as shown on this Consent Form is not current, provide your correct current address with this consent form. If you move after your consent form is submitted, and before you receive a refund check, such address corrections should be directed to Deloitte Tax LLP by email to sunyfica@deloitte.com.

University Dental Resident Services, PC
Frequently Asked Questions
About Medical Resident FICA Refund Claims

I. General Information

1. Who is Deloitte Tax LLP?

Deloitte Tax LLP is a professional service provider that is assisting University Dental Resident Services, PC with the medical resident FICA refund claim process. Much of the official correspondence from University Dental Resident Services, PC to you, and from you to University Dental Resident Services, PC related to this claim will be handled by and through Deloitte Tax LLP.

2. 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.

3. Why are FICA refunds being paid to medical residents and their employers?

Under an untested position that medical residents are excepted from FICA tax as *students* under Internal Revenue Code section 3121(b)(10), some employers (typically hospitals and medical schools) and individual taxpayers (medical residents) began filing FICA refund claims in the 1990's. This exception 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.

As this position had not been applied to medical residents before and the IRS was not refunding such claims by asserting that medical residents were employees (and not students), there was considerable uncertainty as to whether the *student exception* would prevail. Lawsuits filed by institutions seeking to enforce FICA refund claims were vigorously fought by the Department of Justice, with mixed results. As the possibility of eventual FICA refund claim payments became more probable, University Dental Resident Services, PC began filing refund claims as well, starting with calendar year 1997 (earlier years at that time were closed to refund claims due to the expiration of the statute of limitations).

For those years that an employer filed a refund claim, the claim includes two parts; the first part is the employer's FICA tax, and the second part is the employee's FICA tax (for consenting medical residents only). 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.

4. **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.

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. **How would this initiative impact my benefits from the Social Security Administration?**

Whether an employee's social security benefits (either current or future) will be reduced on account of removing wages from his or her social security earnings record will depend on the employee's personal circumstances. A refund could have a detrimental effect upon disability, survivors, or retirement benefits that you, or your family, are receiving or may seek to receive in the future. If you want information about the effect on your social security benefits, you should contact SSA directly at 1-800-772-1213 (toll free). If you call or visit a Social Security office, please have this letter with you. It will help SSA answer your questions. You might want to review your social security record before and after your refund has been processed. You can use your current Social Security Statement or you can request a copy of your Social Security Statement at the SSA website: <http://www.ssa.gov/mystatement>.

7. **If I do not consent, will my FICA wages be affected?**

At this time, the IRS is indicating that residents who consent and obtain a refund are to receive a W-2c reporting reduced FICA wages. Recent IRS materials have not addressed whether **residents who do not consent** (and thus receive no refund) are to be similarly treated but imply that such social security earnings may not be impacted for non-consenting residents. Future IRS and/or SSA materials may clarify this issue.

II. Refund Application Procedures

8. **What must I do in order to be included in University Dental Resident Services, PC FICA refund claim for training that I received prior to April 1, 2005?**

The letter included in this mailing provides detailed instructions on how to participate in University Dental Services, PC's refund claim. If you wish to participate please read the materials thoroughly, complete and sign the Consent Form, and return the signed Consent Form as indicated on its face.

9. **If I consent, when will I get my money?**

Residents who consent to participate in the refund claim should not expect to receive their refund check from University Dental Resident Services, PC until several months (or even more than a year) after consenting. This is because there are multiple procedural steps that must be undertaken by University Dental Resident Services, PC and the government after the consents are received and before University Dental Resident Services, PC is able to remit the refunds to the residents (i.e. filing final refund claims, review and processing by the government, and allocation of interest to individual residents).

III. Miscellaneous

10. Whom should I contact if I have questions regarding this initiative or to update my contact information?

Because each resident's personal tax situation is different, we encourage you to discuss questions about your particular situation with your tax preparer or other personal financial advisor. For general updates, please visit our website at <http://www.smbbs.buffalo.edu/GME/>. For general procedural questions on this initiative that are not answered through the attached frequently asked questions, you may contact Deloitte Tax LLP by email at: sunyfica@deloitte.com.

11. Will I receive interest on my refund?

Yes. The IRS will pay statutory interest when refunding these taxes and you will receive your proportional share. Interest in excess of \$600 will generally be reported on Form 1099-INT as required by the IRS.

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Please note that until you hear from us otherwise, you will be personally responsible for keeping your address information up to date and the refund process may take more than a year to resolve. Failure to do so could cause any refund checks to you to be undeliverable, and ultimately returned to the U.S. Treasury.