

Questions and Answers regarding the FICA Tax Refund Initiative

General Information

1. Why is the institution filing for a Social Security and possibly Medicare (“FICA”) tax credit at this time?

The University of Rochester School of Medicine and Dentistry has reconsidered its classification of interns, residents and clinical fellows (“residents”) for FICA tax purposes as a result of recent and favorable court decisions relating to this issue. It is the position of The University of Rochester School of Medicine and Dentistry that residents in their hospitals are primarily engaged in training or a course of study, and are therefore eligible for a special “student” exemption from FICA, or alternatively, that its residents have not been paid wages but rather stipends that are not subject to FICA.

The University of Rochester School of Medicine and Dentistry filed a FICA tax claim with the Internal Revenue Service (IRS) for FICA taxes remitted on eligible payments to residents/fellows in training during the 1998 calendar year. The IRS **approved** the University of Rochester School of Medicine and Dentistry’s petition for 1998.

We are currently concentrating our efforts on filing for a FICA tax credit for the year 1999, as the statute of limitations closes on April 15, 2003. The statute of limitations bars any claim attributable to stipends paid before 1999. A claim will be filed for 2000 and 2001 FICA taxes previously paid on behalf of the University of Rochester as well as those paid on behalf of all residents who timely return the signed consent form.

If the Internal Revenue Service (IRS) determines that amounts paid to residents are not subject to FICA taxes, a credit of the applicable FICA taxes will be issued by the IRS. Absolutely no additional FICA taxes would be due or owed to the IRS by the University of Rochester or the eligible residents for the year 1998 or 1999.

2. As a 1998 resident, am I eligible to obtain a FICA tax refund for the year 1998?

Perhaps. Eligibility to obtain a refund of FICA taxes paid in 1998 is dependent upon a determination by the IRS that either: (i) the amounts paid to residents at the University of Rochester qualify as stipends rather than wages subject to FICA taxes during the time in question, or (ii) that residents are students who are exempt from FICA.

3. I was not a resident at a University of Rochester affiliated hospital during 1998, but was a resident subsequently. Am I included in the current initiative at the University of Rochester?

The current initiative of the University of Rochester is limited to residents who participated in training during the calendar year 1998. As the University of Rochester has received a favorable determination from the IRS, the University of Rochester will proceed with claims for the years 1999, 2000 and 2001, at which time you will be offered the opportunity to participate in the University of Rochester request.

4. As a current resident at a hospital that is part of the University of Rochester, how does the determination by the IRS affect my FICA treatment in 2002 and going forward?

At this time, the FICA claim initiative does not affect the 2002 or 2003 FICA tax withholding of current residents. In the event the University of Rochester obtains a determination from the IRS that amounts paid to residents are not subject to FICA taxation, the University of Rochester will review its withholding practices.

5. If I timely consent to the University of Rochester's filing for a FICA tax credit on my behalf, will I receive a refund?

Perhaps. There is **no guarantee** that the IRS will reclassify the amounts paid to residents as amounts that are not subject to FICA taxes.

6. Does the claim affect all 1998 residents even if they do not respond or consent?

Yes, the claim affects ALL eligible residents involved in training in 1998 that had FICA withheld and were issued a letter from the University of Rochester. Those individuals who timely respond with both consents signed are eligible to participate in a claim for their portion of applicable FICA taxes originally withheld (related to the eligible amounts). Those individuals who do not respond with both consents are not eligible to receive a FICA refund based on the University of Rochester's claim.

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

Yes, if the IRS determines that the amounts paid to residents are not subject to FICA taxes, the claim will affect ALL eligible residents, regardless of whether the resident has signed and returned a timely consent. Only individuals who timely respond with both consents signed will be eligible to have the University of Rochester refund their portion of applicable FICA taxes originally withheld (related to the eligible amounts). Any individual who does not timely respond with both consents signed is precluded from receiving the amounts that the 1998 FICA taxes that the University of Rochester has applied for on his/her behalf.

Additionally, if the IRS determines that the amounts paid to residents are not subject to FICA taxes, the University of Rochester will appropriately adjust the previously reported FICA wages of ALL eligible residents involved in training who had FICA withheld and were issued a letter from the University of Rochester. To reflect this, each eligible resident will receive a Form W-2c, *Corrected Wage and Tax Statement*, for 1998, regardless of whether the resident has signed and returned a timely consent.

8. Will I need to amend my individual income tax return if I receive a FICA refund and/or a W-2c, *Corrected Wage and Tax Statement*?

A FICA refund or an adjustment of FICA wages on Form W-2c should not require the resident to amend his/her federal income tax return.

Refund Application Procedures

9. What must I do in order to be included in the University of Rochester application for a credit for 1998?

Read and understand the official letter sent to you by the University of Rochester. Complete and **sign both parts** of the consent form and return the signed consent form. The Consent forms will be sent to you after we are notified that the IRS has agreed to the University of Rochester position regarding the residents.

THE **SIGNED** CONSENT FORM WILL BE REQUESTED ONCE THE UNIVERSITY OF ROCHESTER HAS MADE ITS APPLICATION TO THE GOVERNMENT TO OBTAIN THE FICA CREDIT. AT THAT TIME IT WILL BE NECESSARY TO COMPLETE THE FORM AND RETURN IT AT YOUR FIRST CONVENIENCE. IN THE MEANTIME, IF YOUR ADDRESS CHANGES OR YOU KNOW SOMEONE WHO MAY BE ELIGIBLE THAT HAS RELOCATED, PLEASE NOTIFY THE UNIVERSITY OF ROCHESTER OF THE ADDRESS CHANGE. THIS WILL INSURE THAT WHEN LETTERS ARE SENT, WE ARE ABLE TO LOCATE YOU AND YOUR COLLEAGUES.

10. What if I have already claimed a refund for excess social security taxes paid during 1998?

Your prior or pending refund may affect any remaining amount of refund which you are eligible to receive. You should contact us to discuss your particular circumstances.

11. If I choose not to participate in the claim the University of Rochester files on my behalf for the year 1998, does that preclude me from participating in claims the University of Rochester may file on my behalf in subsequent years?

No. In the event you decide not to accept a refund the University of Rochester was credited with on your behalf for the year 1998 and the University of Rochester receives a favorable determination from the IRS, you will be contacted with respect to any other years for which you are determined to be eligible for a refund. At such time, you will be offered the opportunity to receive a refund that the University of Rochester filed for on your behalf for those applicable years.

Potential Result of the FICA Tax Refund Initiative

12. If the IRS determines that the amounts paid to residents are not subject to FICA taxes, when can I expect to receive a refund check?

We are uncertain as to when the IRS will make a final determination on its position on the University of Rochester claim initiative. However, upon receiving a determination, we will contact you in a timely manner. In the event the IRS determines the payments are not subject to FICA taxation, a credit (related to the eligible amounts) will be obtained on behalf of the University of Rochester and on behalf of the residents. This latter portion of FICA taxes will be refunded by the University of Rochester to the residents who consent in a timely manner.

13. Will I receive a Form W-2c to reflect the adjustment of FICA wages for 1998?

Perhaps. If the IRS determines that the amounts paid to residents are not subject to FICA taxation, the University of Rochester will appropriately adjust the previously reported FICA wages of ALL eligible residents involved in training who had FICA withheld and were issued a letter from the University of Rochester. As such, each eligible resident will receive a Form W-2c for 1998, regardless of whether the resident signs and returns a timely consent.

14. If the IRS determines that the residents at the University of Rochester's affiliated hospitals are students or are engaged in training and are not performing employment related services, will I be considered self-employed for income tax purposes and therefore be issued a Form 1099 for 1998?

No, a Form 1099 will not be issued for the residency stipend based upon IRS Guidance.

15. If I receive a FICA tax refund, will the refunded amount be subject to federal income tax?

No. A refund of the applicable FICA taxes previously paid is not subject to federal income taxation. However, part of the total payment may be interest and this amount will be reported separately. Please consult your individual tax advisor.

16. If the University of Rochester is successful, how will this affect the benefits I received in 1998?

The University of Rochester does not expect that benefits (such as retirement plans, health benefits, and the like), which you received in 1998, will be affected.

17. How will this initiative impact my benefits from the Social Security Administration?

In the event the IRS recharacterizes the payments to residents as not subject to FICA tax, each resident's FICA wage amount will be decreased accordingly. To the extent payments to residents are not subject to FICA taxation, such amounts do not count toward employment eligibility for Social Security and/or Medicare benefit purposes. In all likelihood, your Social Security benefit upon retirement will not be affected by this initiative. In rare circumstances, if you were to become disabled and require Social Security benefits prior to normal retirement age, your Social Security benefit may be affected by such reclassification regardless of your consent submission. The extent to which your benefit may be affected will depend upon your individual facts and circumstances including, among other things, age and number of other qualifying quarters.

Miscellaneous Concerns

18. I received a consent form previously from the University of Rochester similar to this one, or I heard about others that had received a similar consent form. What has changed and what should I do now?

The University of Rochester has decided to engage Deloitte & Touche, LLP as consultants to handle their initiative regarding Medical Resident FICA refund claims. Deloitte has a unique legal approach to this type of claim procedure, and the University decided that this approach would best meet the needs of the University and those it serves. If you have already given or withdrawn your consent to be included in the 1998 FICA refund claim, then you need not reply. However, to ensure the best possible result, we would ask that eligible residents reply as instructed in the attached letter.

19. Who should I contact if I have questions regarding this initiative?

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 advisor. For general questions on this initiative, please contact Deloitte & Touche LLP by phone at **University of Rochester's Voice Mailbox #585-238-3374** or by e-mail at **usrochficarefund@deloitte.com**. Please include your name, social security number, telephone number and specific questions. All inquiries will receive a response within two to five business days.

20. Who should I contact if my address has changed, if I plan to move, or if the address on the official letter is different from my current address?

All address changes and corrections should be directed to Deloitte & Touche LLP by phone at **the University of Rochester's Voice Mailbox #585-238-3374**, by email to **usrochficarefund@deloitte.com** or by mail at the following address:

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