

FICA LITIGATION UPDATE

As has been previously reported, since 2005 University Hospital and the United States have been in litigation concerning the extent to which Federal Insurance Contribution Act ("FICA") taxes must be paid on stipends provided to medical residents enrolled in programs sponsored by University Hospital. As discussed below, that litigation affected similar claims nationwide for academic medical centers.

The United States initiated this litigation as a test case seeking a determination on an issue of national significance. FICA taxes, commonly referred to as social security and Medicare taxes, are due on "remuneration for employment," but are not due with respect to amounts provided to "students" in specified circumstances. Like other academic medical centers, University Hospital, out of an abundance of caution, paid the taxes but then later filed protective claims for refunds with the IRS, relying in part on the "student exception."

After some initial court proceedings, University Hospital and the United States engaged in efforts to settle the dispute. While the parties were in the process of finalizing that settlement, the IRS made an administrative determination to accept University Hospital's position that medical residents are excepted from FICA taxes paid before April 1, 2005. This decision effected similar claims nationwide for academic medical centers.

There is a tentative settlement of University Hospital FICA litigation, and it is anticipated that the United States Attorney General will act on the offer in the first quarter of 2011, with the issuance of FICA refunds to follow later in the year. Because this matter is being settled as a result of the litigation, certain procedures must be followed that may differ from the processes and timing associated with the claims of academic medical centers which are being handled on a purely administrative basis. Because of the government-initiated litigation context in which the settlement arises, University Hospital must proceed consistent with these more detailed procedures.

In an attempt to verify the residents' addresses for the processing of FICA claims, University Hospital in September 2010 sent correspondence to residents who participated in specialty and subspecialty residency programs sponsored by University Hospital between January 1, 1997 and March 31, 2005. While many residents responded verifying their current address, we still have not heard from many residents. **If you believe that you may be eligible for the refund but did not receive or reply to such correspondence last fall, please contact us at UHIFICA@deloitte.com** (Deloitte Tax LLP is a professional service provider that is assisting University Hospital, Inc. with respect to the medical resident FICA refund claim process.) Those residents who previously verified their current address do not need to take any immediate steps at this time. After the terms of the settlement have received final approval, those eligible for the refund will receive a letter providing additional information and asking the resident whether he or she wishes to participate in the settlement and consent to University Hospital filing a medical resident FICA tax refund claim on the resident's behalf.

In summary:

If you have already responded and verified your current address, you do not need to do anything at this time. Please notify us if you do have any change of address.

If you have not already verified a current address, please contact us at the following website.

UHIFICA@deloitte.com

Please share this information with any colleagues that were in training with you. We want to make sure that everyone is aware of this information.

Please continue to check our website at <http://www.med.uc.edu/residency/index.html> for updates.