

TO: Medical Residents/Former House Staff who have trained at Beth Israel Medical Center between January 1, 1995 and March 31, 2005

RE: Potential FICA Tax Refund Claim for House Staff who Trained at Beth Israel Medical Center Between January 1, 1995 and March 31, 2005

You may be entitled to a refund of taxes you previously paid. This memo explains your entitlement and provides details about how to provide Beth Israel Medical Center with contact information so that the Medical Center can forward your refund and related documents to you.

Many inquiries have been received from current and former house staff on how one can receive a refund of FICA tax previously paid while a resident or clinical fellow at Beth Israel Medical Center. This interest stems from a court case decided in favor of the University of Minnesota in 1998 that ruled its house staff were "students" and, therefore, were exempt from the payment of FICA taxes. "FICA" is the Federal Insurance Contribution Act, and FICA taxes collected from employers and employees fund Social Security benefits. On March 2, 2010, after nearly 15 years of litigation, the Internal Revenue Service ("IRS") announced that it would concede that medical residents qualify for the student FICA exception for taxable quarters ending before April 1, 2005, meaning that FICA taxes collected from residents and from hospitals should be refunded. This memorandum provides some general information regarding this matter, as well as information regarding Beth Israel Medical Center's activities with respect to this matter.

Background

FICA taxes are imposed on wages received by individuals with respect to employment. Section 3121(b) of the Internal Revenue Code (IRC) defines "employment" as any "service" performed by an "employee" for the person employing him or her, with enumerated exceptions. Section 3121(b)(10) of the IRC provides an exception from FICA tax on account of payments made for services to "a student who is enrolled and regularly attending classes" at the school, college or university where he or she is employed (the "student FICA exception").

On March 2, 2010, after extensive litigation on the matter, the IRS made an administrative determination to accept the position that medical residents were not subject to FICA taxes based on the student exception for tax periods ending before April 1, 2005, when new IRS regulations went into effect. The IRS indicated in its announcement on March 2, 2010 that it would contact organizations that timely filed medical resident FICA tax refund claims for periods prior to April 1, 2005 within 90 days. The IRS contacted Beth Israel Medical Center in a letter dated May 25, 2010 outlining the procedures necessary to be performed prior to obtaining a refund.

Beth Israel Medical Center's Medical Resident FICA Tax Refund Claims

Beth Israel Medical Center filed, by the appropriate IRS deadlines, "protective" refund claims for the FICA taxes paid with respect to medical residents and clinical fellows at Beth Israel Medical Center for the taxable periods from January 1, 1995 through March 31, 2005. The applicable refund procedures allow Beth Israel Medical Center, with your consent, to file for a refund on your behalf for your share of the refundable FICA taxes. Such refund claims included language covering both the employer and employee share of FICA tax.

Beth Israel Medical Center is in the process of "perfecting" these refund claims in accordance with the information that the IRS provided in its Letter 4608 dated May 25, 2010. In this regard, Beth Israel Medical Center is in the process of identifying qualifying house staff, their January 1, 1995 through March 31, 2005 earnings, and the amount of FICA tax paid on such earnings.

To properly complete the FICA tax refund claims under the applicable refund procedures, Beth Israel Medical Center is required to make a good faith effort to contact the individual residents and fellows included in its claim and request their consent to allow Beth Israel Medical Center to coordinate and also seek to obtain the house staff member's portion of the FICA contributions in question on his/her behalf. Beth Israel Medical Center is currently in the process of obtaining up-to-date contact information for all house staff potentially eligible for FICA tax refunds (i.e., who were residents between January 1, 1995 through March 31, 2005) in order to obtain such individual's consent to join Beth Israel Medical Center's refund claim.

You are under no obligation to consent to a refund of your share of FICA taxes when you were a resident. However, if you do not give your consent, it may not be possible for you to seek a refund on your own behalf because of the expiration of the statute of limitations regarding submitting refund claims (e.g., individual and institutional FICA tax refund claims for the taxable period ended March 31, 2005 must have been timely filed by April 15, 2009). You should consult your tax professional if you have further questions regarding this issue. For this reason, we recommend that house staff consent to joining Beth Israel Medical Center's existing claims. **If you wish to consent, please fill out the accompanying Consent Form and return it to Beth Israel Medical Center by fax or email, as noted on that form.**

Whether or not you wish to consent at this time, please take the time to confirm now that Beth Israel Medical Center has your correct current address so that we can keep you informed about developments regarding your FICA refund rights. .

Address information may be sent in one of the following ways:

FAX: 1-813-990-6889

OR

Email: Continuum_MRFICA@us.pwc.com

If you are granted a refund, Beth Israel Medical Center will issue you a Form W-2c, *Corrected Wage and Tax Statement*, for each calendar year in which you are entitled to a refund. None of the amounts reflected on the Form W-2c will result in additional taxes to you. However, the Form W-2c will reflect a reduction in your earnings for Social Security benefits purposes. Whether Social Security benefits that you are receiving currently or in the future are impacted by a reduction of wage credits as a result of the refund depends on your particular facts and circumstances. These questions can be addressed by the Social Security Administration ("SSA") at your local SSA office.

You will also be entitled to interest on your refund amount. The interest paid by the IRS on your share of the FICA tax refund is subject to tax in the year it is received. You will be provided a 1099-INT if more than \$600 in interest is paid in the calendar year. You should contact your tax professional for more information on this subject and to discuss your specific tax situation.

If you have any questions about the foregoing information, you may email **Continuum_MRFICA@us.pwc.com** . Include your name, telephone number, Beth Israel Medical Center ID number (if available), and years of residency or fellowship in your email message. Your inquiry will be answered by email as soon as possible. We will also update this webpage with frequently asked questions and any additional information as the claim filing process progresses.

FICA MEDICAL RESIDENTS TAX REFUNDS: FREQUENTLY ASKED QUESTIONS

□ **What does the IRS Announcement mean to me?**

On March 2, 2010, the IRS announced that it had made an administrative determination to accept the position that medical residents are excepted from FICA taxes based on the student exception for tax periods ending before April 1, 2005, when new IRS regulations went into effect. This announcement means that the IRS will provide a refund of the FICA taxes for individual medical residents and institutions that timely filed refund claims for tax periods ending before April 1, 2005. The IRS has contacted Beth Israel Medical Center regarding the FICA tax refund claims we filed for tax periods ending before April 1, 2005. Beth Israel Medical Center is in the process of responding to an IRS letter dated May 25, 2010 that outlines the procedures required to be completed prior to obtaining any refund. Beth Israel Medical Center is in the process of preparing the information necessary to respond to this letter in a timely manner and will be posting updates periodically on this webpage regarding the FICA tax refund process.

The IRS Announcement appears on the IRS website at:
<http://www.irs.gov/charities/article/0,,id=219548,00.html>

□ **As an intern, resident or fellow, am I eligible for a FICA tax refund pursuant to the claims filed by Beth Israel Medical Center?**

Beth Israel Medical Center has no reason to believe that interns, residents and fellows employed by Beth Israel Medical Center would not be eligible for a FICA tax refund pursuant to the FICA tax refund claims Beth Israel Medical Center timely filed for periods prior to April 1, 2005. However, in order to obtain your share of FICA tax, you must consent to allow Beth Israel Medical Center to obtain your share of refundable FICA taxes. Further guidance and information on the consent process will be provided in the near future. Beth Israel Medical Center anticipates contacting residents by mail in order to obtain such consents and posting a standard consent form on this webpage.

□ **As an intern, resident or fellow, for what time periods am I entitled to a FICA tax refund under the claims filed by Beth Israel Medical Center?**

Eligibility to be covered under refund claims filed by Beth Israel Medical Center is limited to those individuals who were interns, residents or fellows during the period from January 1, 1997 through March 31, 2005.

□ **Is there a cost to me for consenting to having Beth Israel Medical Center obtain my share of FICA taxes paid with respect to my residency?**

If you consent to have Beth Israel Medical Center obtain your refundable share of FICA taxes on your behalf, there is no cost to you.

□ **Can I still apply for a FICA tax refund for tax periods prior to April 1, 2005?**

Unless you previously timely filed an individual FICA tax refund claim on your own, the statute of limitations has expired for FICA tax refunds for tax periods prior to April 1, 2005. However, as discussed above, with your consent, the applicable refund procedures allow Beth Israel Medical

Frequently Asked Questions Regarding Medical Resident FICA Tax Refunds

Center to obtain your share of refundable FICA taxes pursuant to the timely filed refund claims filed by Beth Israel Medical Center for periods prior to April 1, 2005. Further guidance and information on the consent process will be provided in the near future. Beth Israel Medical Center anticipates contacting residents by mail in order to obtain such consents and posting a standard consent form on this webpage.

You should consult your tax professional if you have further questions regarding this issue.

□ What was the basis for these medical resident FICA tax refund claims?

The medical resident FICA tax refund claims stem from a decision of the U.S. Court of Appeals for the Eighth Circuit in 1998 in *State of Minnesota v. Apfel* which held that stipends paid to University of Minnesota medical residents in 1995-96 were not subject to FICA tax as a result of the student FICA exception. Since the decision of the Eighth Circuit in 1998, other U.S. Courts of Appeals have rendered decisions regarding medical residents' eligibility for the student FICA exception and all have held that medical residents are or could be eligible for the student FICA exception. Based on this extensive litigation, which has generally been decided in the favor of institutions employing medical residents, the IRS finally conceded in its Announcement (IR 2010-25) on March 2, 2010 that it would accept the position that medical residents qualified for the student FICA exception for periods prior to April 1, 2005.

□ Will FICA taxes be withheld from my paycheck going forward?

Yes. The IRS has not accepted the position that medical residents are excepted from FICA taxes based on the student exception for tax periods ending after April 1, 2005.

In response to the litigation regarding the eligibility of medical residents to qualify for the student FICA exception, the IRS amended its regulations in 2004 (effective April 1, 2005) so that medical residents could not qualify for the student FICA exception - based on the application of the "full-time employee" limitation. On June 12, 2009, the U.S. Court of Appeals for the Eighth Circuit, in *Mayo Foundation for Medical Education and Research v. United States*, upheld the "full-time employee" limitation in the final amended regulations effective April 1, 2005 under the student FICA exception. Based on the application of the "full-time employee limitation," medical residents are generally unable to qualify for the student FICA exception. This issue is still being litigated. Most recently, on June 1, 2010, the U.S. Supreme Court decided that it would review the issue of whether the "full-time employee" limitation is valid.

Accordingly, FICA taxes will continue to be withheld from any residency, internship and/or fellowship earnings. Further questions about FICA withholding on future earnings should be directed to the administrator of your residency, internship and/or fellowship program.

□ Who should I contact with any questions?

If you have any questions, you may email Continuum_MRFICA@us.pwc.com Include your name, telephone number, Beth Israel Medical Center ID number (if available), and years of residency or fellowship in your email message. Your inquiry will be answered by email as soon as possible. We will also update information on this webpage, including these frequently asked questions, with any additional information as the refund claim process progresses.

□ What should I do if I move while the refund process is still ongoing?

Frequently Asked Questions Regarding Medical Resident FICA Tax Refunds

It is anticipated that the refund process may take several months. As a result, if your mailing address changes, please provide any new mailing address information to:

FAX: 1-813-990-6889

OR

Email: Continuum_MRFICA@us.pwc.com

- ❑ **Once the IRS provides the FICA tax refund, when can I expect to receive my share of any refund?**

Once the claims process is completed, the IRS will send the aggregate refund to Beth Israel Medical Center. The amount refunded to Beth Israel Medical Center will only include the employee share of FICA taxes for those residents who consented to Beth Israel Medical Center's refund claim. Although we do not know how long it will take for the IRS to administer the refund claim, once Beth Israel Medical Center's claim is allowed, we will send those residents who consented to Beth Israel Medical Center's refund claim a check for their share of the FICA tax refund in a timely manner.

- ❑ **If I do receive a FICA tax refund, do I need to pay taxes on it?**

Should you receive a FICA tax refund, the refund is not subject to federal income tax.

However, the IRS intends to pay interest on your share of the FICA tax that is refunded. The interest paid by the IRS on your share of the FICA tax refund is subject to tax in the year it is received. You will be provided a 1099-INT if more than \$600 in interest is paid in the calendar year. You should contact your tax professional for more information on this subject and to discuss your specific tax situation.

- ❑ **If I do receive a FICA tax refund, how does this affect my eligibility for and calculation of Social Security benefits?**

Your eligibility for and calculation of Social Security benefits (either current or future) may be affected in the event of a refund, depending on your personal circumstances. If you consent to the refund claim, you will be issued a Form W-2c which will reflect a reduction in your earnings for Social Security benefits purposes. Whether Social Security benefits that you are receiving currently or in the future are impacted by a reduction of wage credits as a result of the refund will depend on your particular facts and circumstances. You should contact your local Social Security Administration office with any questions regarding your particular situation.

Employee Consent Form

Social Security Number: _____

Employee Name: _____
Last, first and middle initial

Prior name: _____
If you changed your name because of marriage, divorce, etc., enter the name used when you were a medical resident

Address: _____
Number and street or P.O. box number | Apt. No

City, town or post office | State | Zip Code

Email: _____ Phone: _____

Note: If foreign address, enter the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code. Please do not abbreviate the country name.

For each year shown below, check "Yes" if you authorize Beth Israel Medical Center to collect the refund on your behalf, or "No" if you do not authorize Beth Israel Medical Center to collect the refund on your behalf, or you are not eligible for a refund.

1995	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1999	<input type="checkbox"/> Yes	<input type="checkbox"/> No	2003	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1996	<input type="checkbox"/> Yes	<input type="checkbox"/> No	2000	<input type="checkbox"/> Yes	<input type="checkbox"/> No	2004	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1997	<input type="checkbox"/> Yes	<input type="checkbox"/> No	2001	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1st Quarter of 2005:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1998	<input type="checkbox"/> Yes	<input type="checkbox"/> No	2002	<input type="checkbox"/> Yes	<input type="checkbox"/> No			

For each year I checked "Yes" above:

- I have not claimed and will not claim a refund or credit from the IRS for any over-collected FICA taxes from wages paid for services performed as a medical resident, or if I have, the claim was rejected.
- I did not receive a FICA tax refund or credit because of earnings in excess of the social security wage base on my Federal income tax return (e.g., Form 1040).
- I understand that my Social Security earnings record will be corrected to reflect zero wages earned as a resident for tax periods for which I received a refund. I understand that removing these wages could affect my eligibility to or the amount of future Social Security benefits.
- I give my consent to Beth Israel Medical Center to file a Medical Resident FICA Refund Claim on my behalf for refunds of FICA taxes that Beth Israel Medical Center withheld from my wages for services I performed as a medical resident.

SIGN HERE ►

| Date: _____

Return your signed consent form as promptly as possible to:

FAX: 1-813-990-6889

OR

Email: Continuum_MRFICA@us.pwc.com

Keep a signed copy of the consent form for your records.