



PAYROLL CURRENTLY

The Payroll Compliance Publication of the American Payroll Association

Volume 18

Issue # 7

July 9, 2010

Supreme Court Will Decide If Medical Residents Qualify for the FICA Student Exception

The U.S. Supreme Court has agreed to hear the appeal of a case involving the question of whether the “student exception” from FICA (social security and Medicare) taxes applies to medical residents [*Mayo Foundation for Medical Education and Research v. U.S.*, No. 09-837 (U.S. Sup. Ct., 6-1-10)].

In 2003, a federal district court in Minnesota ruled that the FICA student exception applied to residents in the Mayo Clinic’s graduate medical education program. In response to that and other similar decisions, the IRS issued revised regulations in 2004 restricting the scope of the exception in connection with the performance of services in the nature of on-the-job training and making clear that the exception does not apply to medical interns and residents.

After the revised regulations became effective on April 1, 2005, the Mayo Clinic withheld and paid FICA taxes on the stipends paid to its medical residents, and sued to obtain a refund. In 2007, the Minnesota federal district court said the revised regulations were invalid interpretations of the IRC section setting out the exception, applied the FICA student exception to the residents, and ordered a refund of the FICA taxes paid.

In the case on appeal here, the Eighth Circuit Court of Appeals reversed that decision and said the revised regulations are valid – creating a split among the federal courts of appeals on this issue (see **PAYROLL CURRENTLY, Issue No. 13, Vol. 17**).

Note: The IRS recently announced that it would accept the position that medical residents are excepted from FICA taxes based on the student exception for tax periods ending before April 1, 2005 – the date when new regulations on the student FICA exception became effective (see **PAYROLL CURRENTLY, Issue No. 4, Vol. 18**).