

## **FICA for Residents Training in GME Programs**

The IRS has recently announced that it would return Federal Insurance Contributions Act (FICA) taxes to residents and teaching hospitals who filed claims for a refund before April 1, 2005.

In the late 1990's, certain institutions had challenged the IRS position that residents fit the definition of an employee (as opposed to a student) and won. Over the course of the next 10 years, first the IRS appealed and obtained a reversal, and then the institutions appealed and eventually won. During this time, the UW evaluated joining the institutions which challenged the IRS position, but chose not to for several reasons.

Fundamentally, the UW determined that residents in the UW programs better fit the definition of an employee. Moreover, UW was concerned that residents exempted from FICA would be at risk of losing the State employee health insurance benefits and that they would not be eligible for social security benefits if they became disabled during or soon after residency. Finally, it was not clear 10 years ago that the institutions would prevail.

Accordingly, the UW is not eligible to seek a refund. Since the UW is not eligible to seek a refund, it is also unable to seek refunds on behalf of its residents. A resident may qualify for a refund only if he/she has already filed an individual FICA refund claim. The deadline to file a refund claim for FICA taxes paid prior to April 1, 2005 has passed. For additional information, please refer to the IRS website at <http://www.irs.gov/charities/article/0,,id=219548,00.html>, and <http://www.irs.gov/charities/article/0,,id=219547,00.html>.

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