



March 23, 2010

IRS Sued by University

The University of Rochester is filing a lawsuit against the IRS over tax refunds amounting to \$26.4 million that university officials claim were unlawfully withheld by the government agency. This amount comes from money withheld from the salary checks of hundreds of medical students of the University between 1998 and 2004. The lawsuit also seeks to recover interest payments on the amount.

The contention held by the University is that their medical students are not full-fledged physicians and they serve for three to seven years at teaching hospitals such as Strong Memorial and Highland under the supervision of the hospital's medical staff upon graduation from the University's medical school. The sum of \$26.4 million is the payroll tax made up of the salaries of the medical students and payments to the IRS from the University in equal shares and is taxed under the Federal Insurance Contribution Act (FICA).

On average, a medical student of the University is paid a stipend of between \$45,000 and \$55,000 per annum. The University of Rochester has 536 medical students being interned at present. There appears to be a strong chance of the University being successful in its claim as the IRS code provides that salaries are subject to tax unless they are paid for the purpose of education. Furthermore, a directive issued by the IRS stated that the IRS will accept the position that salaries of medical students were exempted from the payroll tax under a student exemption provision before April 2005. This directive came about as a direct consequence to dozens of similar claims by other universities regarding their medical students over the years. However, federal officials have been reiterating that medical residents since April 2005 should be subject to the payroll tax. On the other hand, one of the pending cases has requested the Supreme Court for a review of this issue and the 2005 regulations.

Over the next three months, the IRS will be contacting all the universities that have made claims for refunds on their payroll taxes prior to April 2005. The University of Rochester is one of those who will be contacted. Should the University be successful in their claim, they will contact the hundreds of past medical students between 1998 and 2004 to return them their share of the refund.

The IRS has not confirmed the amount of refunds they will be making to the universities.

Darrin T. Mish is a veteran, nationally recognized tax attorney who has focused on providing IRS help to taxpayers for over a decade. He regularly travels the country training other attorneys,

CPAs and enrolled agents on how to handle their toughest cases with the IRS. He is highly ranked among the top attorneys in the country, with an AV rating from Martindale-Hubbell and a perfect 10 on Avvo.com. Martindale-Hubbell has also honored him with a listing in their Bar Register of Preeminent Lawyers. He is a member of the American Society of IRS Problem Solvers and the Tax Freedom Institute. With clients on every continent but Antarctica, he has what it takes to solve your IRS problems no matter where you live in the world. If you would like more information about his practice and how he can help you, please call his office at (813) 229-7100 or toll free at 1-888-GET-MISH.