

April Deadline for Employers to Claim FICA Tax Refunds on 2010 Severance Pay

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The issue of whether FICA payroll taxes are due on severance payments is currently being reviewed by the U.S. Supreme Court. If the Supreme Court finds FICA taxes are not due, employers will have to file refund claims for taxes previously paid on severance payments. Unless the Supreme Court issues its opinion before April 15, 2014, an employer must file a refund claim by that date in order to preserve a refund right for any such taxes paid in 2010. (It is already too late to file refund claims for FICA taxes paid in 2009 or earlier.) For severance payments made in tax years after 2010, employers should wait for the Supreme Court's decision before taking any action to avoid unnecessary expenses. There are specific rules for filing such a refund claim, including the need to obtain employee consent to avoid reimbursement obligations to the employee, and for filing appeals if the refund claim is denied. For additional information or assistance with filing these claims, please contact any [Lawyer](#) in the [Employee Benefits Group](#).