

## Supreme Court Agrees to Decide Whether Treasury Department Can Force Teaching Hospitals to Pay Social Security Tax for Work Performed by Medical Residents

On June 1, 2010, the Supreme Court agreed to decide a case that implicates \$700 million a year in federal tax obligations of medical institutions, such as teaching hospitals and medical schools, and their residents. In granting the petition for *certiorari* in *Mayo Foundation for Medical Education & Research v. United States*, the Court took on the question whether the Treasury Department can categorically exclude all medical residents and other full-time employees from the federal law that exempts work performed by “student[s]” from the obligation to pay Social Security taxes.

Social Security taxes are imposed on employers and employees under the Federal Insurance Contributions Act (FICA), but the statute carves out an exemption for work performed by individuals who are students at the schools, colleges, or universities at which they are employed. Faced with a series of judicial decisions holding that medical residents are eligible for a “Student Exemption,” the Treasury Department amended its regulations to provide that full-time employees, including medical residents, do not qualify. The Mayo Foundation and the University of Minnesota asserted tax refund claims challenging the amended regulations. The district court held the regulations invalid on the ground that they conflicted with the Student Exemption as adopted by Congress. The Court of Appeals for the Eighth Circuit reversed, holding that the Treasury Department’s exclusion of full-time employees was entitled to deference under *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* In so holding, the Eighth Circuit created a split among the federal appellate courts, prompting the Supreme Court to grant *certiorari* in order to clarify the law.

The issue before the Supreme Court is of significant importance to institutions that run medical residency programs, implicating approximately \$700 million per year in federal taxes and \$2.1 billion in pending refund claims. In such cases, non-parties to the litigation whose interests will likely be implicated by the Supreme Court’s resolution of the case frequently file *amicus curiae* briefs to assist the Court in appreciating the full impact of the issue presented for the Court’s consideration or to address some aspect of the case or argument on which the parties may not focus. Ropes & Gray recently filed an *amicus* brief in the Supreme Court on behalf of 44 research universities and six university organizations in support of the petition for *certiorari* in *Board of Trustees of the Leland Stanford Junior University v. Roche Molecular Systems, Inc.* to explain the urgent need for Supreme Court review of a Federal Circuit decision that undermines universities’ intellectual property rights in federally funded inventions. A copy of that brief is available [here](#).

If you have any interest in discussing the potential impact of *Mayo Foundation v. United States* or the possibility of filing an *amicus* brief, please do not hesitate to contact your regular Ropes & Gray attorney or [Douglas Hallward-Driemeier](#), who leads our [Appellate and Supreme Court practice](#).

*This information should not be construed as legal advice or a legal opinion on any specific facts or circumstances. This information is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer concerning your own situation and any specific legal questions you may have.*