

# TAX TIPS

## LAYOFFS AND PAYROLL TAXES

A recent Appeals Court ruling—that severance payments of laid-off workers are not subject to FICA taxes—seems to favor both the workers and their employers. Neither will have to pony up 7.65 percent of that payment for Social Security and Medicare. The ruling may be appealed to the Supreme Court, but that would take a while. It seems that severance pay is treated as wages only because of income-tax withholding, but is not otherwise considered wages.

Companies that paid those taxes previously would be wise to file a protective refund claim—on Form 843—for such FICA taxes as were paid in all open tax years. Some companies filed such claims in the past; if they were denied, and most were, they cannot be refiled. When IRS counsel is contacted, though, the agency has been known to halt the two-year limitation period on lawsuits for these refunds.

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