



**STATE OF NEW MEXICO
TAXATION & REVENUE**

**Status of the
Native American Veterans'
Income Tax Settlement Fund**

**Presentation to the
Military and Veterans' Affairs Committee**

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New Mexico Taxation & Revenue Department**

October 27, 2010



Legislative History

- ❖ Senate Bill 574 introduced by Senator John Pinto during the 2008 legislative session created the Native American Veteran's Income tax Settlement Fund.
- ❖ Senate Bill 541 sponsored by Senators Pinto and Lovejoy amended the legislation to provide clarification.
- ❖ 7-2H-2 of the NMSA established the statutory authority for the Native American Veterans Income Tax Settlement Fund.
- ❖ Legislation in 2009 appropriated one million dollars for use as follows:
 - \$ 900K for the payments to veterans
 - \$50K each to the Department of Veterans' Services (DVS) and the Taxation and Revenue Department (TRD) for expenditures related to the processing of claims.



Legislative History

- ❖ 7-2H-3 required the adoption of rules to administer the fund and make settlement payments.
- ❖ 7-2H-4 required the Secretary of DVS in cooperation with the Secretary of TRD to conduct a study to determine whether Native American veterans who were domiciled on tribal lands had New Mexico personal income taxes improperly withheld from their military pay during periods of active duty. The study was presented to this committee on October 1, 2008
- ❖ 7-2H-4 Requires the DVS Secretary to provide a status report to the interim legislative committee no later than October 1 of each year.



Efforts to Implement the Fund

- ❖ Consulted with tribal leadership
- ❖ Issued and implemented regulations on December 1, 2009
- ❖ Created an agreement with the Department of Defense Finance and Accounting Services (DFAS)
- ❖ Established a TRD account from which to issue settlement payments
- ❖ Created and implemented outreach plans
- ❖ Created forms to process and approve of claims
- ❖ Posted forms on TRD and DVS websites for veterans' use
- ❖ Created data tracking spreadsheets



The Refund Process

- ❖ The process for determining whether a particular Native American veteran is entitled to a settlement from the fund begins when the Taxation and Revenue Department receives a completed Settlement Fund Claim form signed by the claimant or personal representative and by the Department of Veteran's Services.
- ❖ If the claimant does not have income withholding information from their military service and wants the Department to obtain withholding information, the claimant will authorize the Department to obtain W-2 information for years of the claimant's service. This authorization also allows the federal government to release this information to the Department under the Privacy Act.



The Refund Process

- ❖ The Department has determined - after consultation with military representatives - that no New Mexico income tax withholding was made for dates of service prior to 1977.
- ❖ Federal law did not permit the withholding of state income taxes from military service persons until 1976 and, then, only after an agreement was entered into with the Department of Defense. New Mexico entered into such an agreement and began withholding New Mexico income tax on July 1, 1977.
- ❖ For service years 1982 or earlier, the Department sends a request for withholding information by fax to the Defense Finance and Accounting Service (DFAS). DFAS researches each claimant's information and returns to the Department a spreadsheet listing the withholding amounts for each claimant, broken down by year and service branch.



The Refund Process

- ❖ For years 1983 through 2005, the Department initially sends a request to Defense Manpower Data Center (DMDC). The DMDC spreadsheet lists each claimant, social security number, dates of service, branch, match, name, withholding amount, and file calendar year.
- ❖ If DMDC returns a “NO” match for a particular claimant, the Department forwards the same request to DFAS. DFAS researches each record and returns the information to the Department.
- ❖ When the Department receives the results of the research on withholding from DFAS and DMDC, the Department researches the Department’s tax databases to determine if the reported withholding was previously refunded to the claimant based on a tax return showing a refund due to the claimant.
- ❖ Based on the research, the Department makes a determination to approve, deny, or partially approve or deny each particular claim. Each claimant is then sent a letter setting forth the Department’s determination on their claim.



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Summary of the Fund	Year to date
Total Claims received:	1,176
-Refund issued	666
-Total claims denied	494
-Total claims in process	16
Total Appropriation (Original)	\$1,000,000
Appropriation in FY12	<u>\$250,000</u>
Total	\$1,250,000
Total claims paid from the Fund	\$828,360
Admin costs to DVS/TRD	\$168,408
Fund balance	\$253,232
Average Refund Amount	\$1,243



Questions?