

Department of Veterans Affairs and Taxation and Revenue Department

Native American Veteran Income Tax
Settlement Fund Update

Background for Legislation

- Stipulated Decision and Order on Felipe vs TRD endorsed on April 30, 2007
 - Eleven valid claimants for refund of income tax withheld from their military pay
 - Judge Hall ordered \$28,040.24 be paid to the claimants

Summary of SB574

- SB 574 requires the Secretary of Veterans Affairs in cooperation with the Taxation and Revenue Department to:
 - “Determine whether Native American veterans who were domiciled on tribal lands during the period of their active military duty had state personal income taxes withheld from their pay
 - and if so, to determine the amount of state personal income taxes improperly withheld
 - and the number and identity of Native American veterans or their survivors affected by the improper withholding of state personal income taxes.”

Summarization of SB574 cont.

- SB 574 also created, but did not fund, the Income Tax Settlement Fund, which would be used to make settlement payments to Native American veterans who had state income taxes improperly withheld

Data from TRD

- State Personal Income Tax was enacted in 1919, and Employer withholding of State Personal Income Tax was enacted in 1961
- Tax rates in 1969 ranged from 1% for \$500 to 9% for greater than \$100,000, and were reduced in 1974, 1978, 1981
- New Mexico entered into agreement with Department of Defense to withhold State Personal Income Tax in July of 1977 – to best of our knowledge, no state taxes were withheld from military pay prior to this date.

Data on NM Native American Veterans

- Total number of veterans (living) in NM as of 12/31/08 – 180,000
- Total number of Native American veterans (living) as of 12/31/08
 - 15,000, source: Veteran’s Administration
- Total number of Native American veterans (living) that are 56 or older – 2,211 (likely to be ineligible since their service would have been prior to 1977 when state taxes were first

Service, pay and domicile verification for NM Native American Veterans

- DD214
- Name
- Service
- Domicile
- Pay rate

THIS IS AN IMPORTANT RECORD. ANY ALTERATIONS IN SHADY AREA WILL BE CONSIDERED FALSIFICATION.

DD FORM 214, FEB 2000

PREVIOUS EDITION IS OBSOLETE. STATE SUBJECT OF VETERANS AFFAIRS - 6

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. MEMBER'S LAST NAME: [REDACTED] 2. DEPARTMENT, COMPONENT AND BRANCH: USMC-11 3. SOCIAL SECURITY NUMBER: [REDACTED]

4. GRADE RATE OR RANK: PVT 5. DATE OF BIRTH (YYMMDD): 07/17/1950 6. SERVICE ORGANIZATION TERMINATION DATE: 07/17/2000

7a. PLACE OF ENTRY INTO ACTIVE DUTY: [REDACTED] 7b. HOME OF RECORD AT TIME OF ENTRY (City and State, or complete address if foreign): [REDACTED]

8a. DUTY ASSIGNMENT AND MAJOR COMMAND: [REDACTED] 8b. STATION WHERE SEPARATED: [REDACTED]

9. COMMAND TO WHICH TRANSFERRED: [REDACTED]

10. PRIMARY SPECIALTY (Last number, title and years and months in specialty, if an additional specialty/numbers and dates including 3551 - Motor Vehicle Operator (10 months))

11. RECORD OF SERVICE	12. RECORD OF SERVICE	13. RECORD OF SERVICE	14. SOCIAL COVERAGE
DATE	DATE	DATE	AMOUNT
a. DATE ENTERED THIS PERIOD: 2000			
b. SEPARATION DATE THIS PERIOD: 01			
c. NET ACTIVE SERVICE THIS PERIOD: 00			
d. TOTAL FROM ACTIVE SERVICE: 00			
e. TOTAL FROM INACTIVE SERVICE: 00			
f. TOTAL FROM SERVICE: 00			
g. RESERVE SERVICE: 00			
h. EFFECTIVE DATE OF PAY GRADE: 2000			

14. MEMBER CONTRIBUTED TO POST-VETNAM ERA VETERAN EDUCATIONAL ASSISTANCE PROGRAM: YES NO

15. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION: YES NO

16. MEMBER'S RELATIVE (Name and address - complete street only): [REDACTED]

17. MEMBER'S RELATIVE (Name and address - complete street only): [REDACTED]

18. MEMBER'S RELATIVE (Name and address - complete street only): [REDACTED]

19. MEMBER'S RELATIVE (Name and address - complete street only): [REDACTED]

20. MEMBER'S RELATIVE (Name and address - complete street only): [REDACTED]

21. MEMBER'S RELATIVE (Name and address - complete street only): [REDACTED]

22. TYPE OF SEPARATION: Discharged

23. DATES OF TIME LOST DURING THIS PERIOD (YYMMDD): [REDACTED]

24. CHARACTER OF SERVICE (include applicable code): [REDACTED]

25. MEMBER REQUESTS COPY 4: YES NO

26. MEMBER REQUESTS COPY 7: YES NO

Status of NAVITS as of October 26, 2011

- **1191** - Total number of applications received to date.
- **1101** - Number of applications forwarded to Tax and Rev.
- **76** - Number of applications returned to applicants and not received back.
- **13** - Number of applications denied due to non-residency or service.
- **1** - Deceased and have not received application from family.

Claims Processed by TRD

- # Claims W/H Amount Interest Amount Total Prin + Interest
- 665 390,867.79 436,171.48 827,039.27
- Amount Allocated by Legislature for Project 1,000,000.00
- Remaining Balance for Project 172,960.73
- SUMMARY OF ACTIONS TAKEN ON CLAIMS RECEIVED
- Refunds issued 644
- Refunds pending at Financial Services 13
- Claims denied 476
- Additional Refunds, per Protest or W/H Received by Dept 57

11/1/2011