

**Presentation to the Indian Affairs Committee:
Native American Veterans Income Tax Settlement – October 30, 2014
Elisa Walker-Moran, Chief Economist
New Mexico Taxation and Revenue Department**

Summary

In 2009, the New Mexico Legislature recognized Native Americans have served their country through active duty in the armed forces of the United States. These Native American veterans may have been domiciled on their own tribal lands during their periods of active duty and may have been exempt from paying state income tax on their military pay, but may have had state income tax withheld from their military income. These Native American veterans are now barred from claiming refunds for this withholding from military pay due to the state statute of limitations. The Legislature recognized it is incumbent upon the state to implement a feasible means of refunding to Native American veterans any state personal income taxes that were withheld from military income while they were domiciled within the boundaries of their tribal lands during the period of their active military duty.

The NM Legislature created the Native American Veterans Income Tax Settlement Fund (NAVITS), Section 7-2H NMSA 1978 in 2010 and appropriated \$1 million to the New Mexico Taxation and Revenue Department (TRD) to make settlement payments to Native American veterans who had not already been refunded. The refund includes interest from the date of the withholding. No settlement payments are to be made for any tax year for which a refund claim could be timely filed with the department. No NAVITS claims could be filed after December 31, 2012. During the 2011 NM Legislative session an additional \$250,000 was appropriated to the fund. Another \$50,000 was appropriated to the fund during the 2014 NM Legislative session.

Beginning with fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund would be appropriated to each TRD and New Mexico Department of Veteran Services (DVS) for the administration and outreach efforts of the fund.

This was a collaborative effort with TRD and the DVS. The process for TRD entailed extensive communications and data exchange with the US Department of Defense-Defense Finance & Accounting Services (DFAS) and the Defense Manpower Data Center (DMDC). TRD had to establish a line of communication with the different branches of the military, full time or reserve, as well as specific command locations period specific i.e. service duty before 1978 etc. TRD also had to create forms to process and approve claims. These forms are posted on TRD and DVS websites for veterans' use. Once TRD receives all research data from DFAS and DMDC then a determination to approve, deny or partially approve or deny the refund is made on each claim. Each claimant is sent a letter setting forth TRD's determination on their claim.

Claims Processed

Claims approved	785
Claims denied	662
Total Claims	1,447

5 Approved claims not paid: \$19,767 (shown in table below)

Claims Paid or Pending Payment

Summary of NAVITS Claims Paid Out Per Year						
Year	# Claims	W/H Amount	Interest Amount	Total Principal + Interest	Total Admin Fee	Appropriation Remaining
2010	Original Appropriation					\$1,000,000
2010	623	\$351,610	\$411,972	\$763,582	\$100,000	\$136,418
2011	45	\$41,914	\$26,968	\$68,882	\$43,408	\$24,128
2012	New Appropriation					\$250,000
2012	49	\$40,492	\$38,508	\$79,000	\$25,000	\$170,128
2013	63	\$82,679	\$64,370	\$147,049	\$21,752	\$1,327
2014	New Appropriation					\$50,000
2014	5	\$10,028	\$9,739	\$19,767	\$1,985	\$29,574
TOTAL	785	\$526,723	\$551,558	\$1,078,281	\$192,145	

Administrative Fee

Summary of NAVITS Administrative Fee			
Fiscal Year	NMTRD	DVS	TOTAL
2010	\$50,000.00	\$50,000.00	\$100,000.00
2011	\$21,704.00	\$21,704.00	\$43,408.00
2012	\$12,500.00	\$12,500.00	\$25,000.00
2013	\$10,876.00	\$10,876.00	\$21,752.00
2014	\$992.46	\$992.46	\$1,984.92
TOTAL	\$96,072.46	\$96,072.46	\$192,144.92