

Native American Veterans Income Tax Settlement Fund

Pub 706
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This publication issued jointly by the Arizona Department of Revenue and the Arizona Department of Veterans' Services is intended to provide general information about the Native American Veterans Income Tax Settlement Fund. For complete details, refer to Arizona Laws 2016, Chapter 125, § 19-29. In the case of inconsistency or omission in this publication, the language of the Arizona law will prevail.

Background

On November 22, 2000 the United States Justice Department issued a memo declaring that the taxation and withholding of state income taxes from active duty military pay of Native Americans domiciled on their reservation was impermissible. The United States Department of Defense began mandatory Arizona income tax withholding on all active duty military pay on September 1, 1993 and continued withholding Arizona income tax through December 31, 2005. Beginning January 1, 2006 Arizona no longer taxed active duty military pay and therefore discontinued state income tax withholding on this type of income. The Native American Veterans Income Tax Settlement Fund was established on July 1, 2016 to refund Arizona income tax erroneously withheld from Native Americans who served in the military while claiming tribal land as their domicile from September 1, 1993 through December 31, 2005. During the 2017 Arizona legislative session House Bill 2158 was introduced to amend the original legislation when it was discovered the Department of Defense may have withheld Arizona income tax prior to September 1, 1993. Effective August 9, 2017 refunds may be claimed for years 1977 through 2005.

Q1. Why was the Native American Veterans Income Tax Settlement Fund established?

A1. Arizona income tax may have been withheld from Native American active duty military pay in years 1977 through 2005. Those tax years are currently closed by the statutes of limitations. Therefore, in an effort to refund Arizona income tax withholding from active duty military pay of Native Americans veterans domiciled on their reservation, the Arizona legislature established the Native American Veterans Income Tax Settlement Fund.

Q2. What years did the Department of Defense withhold Arizona income tax from active duty military pay?

A2. The Department of Defense may have withheld Arizona income tax from 1977 through 2005. Arizona entered into an agreement with the United States Department of Defense to withhold Arizona income tax from active duty military pay beginning September 1, 1993. Arizona continued to withhold income tax on active duty military pay through 2005. Beginning January 1, 2006 Arizona no longer subjected active duty military pay to its income tax and accordingly stopped withholding state income tax. After the Native American Veterans Income Tax Settlement Fund was established it was discovered the Department of Defense may have withheld Arizona income tax prior to September 1, 1993. As a result, the Native American Veterans Income Tax Settlement Fund was amended to allow refunds for years 1977 through 2005.

Q3. How much money is allocated to the Native American Veterans Income Tax Settlement fund?

A3. The Arizona Legislature allocated two million dollars to fund. Of the two million dollars 5 percent is allocated to the Department of Veterans' Services and 5 percent is allocated to Department of Revenue to cover administrative costs.

Q4. What years are refunds available?

A4. Refunds may be claimed for years 1977 through 2005. Mandatory withholding of Arizona income taxes by the Department of Defense on active duty military pay did not begin until September 1, 1993, however there may have been withholding prior to that date.

Q5. May I amend my old Arizona state income tax returns to recover my Arizona income tax withholding for years 1977 through 2005?

A5. No, 1977 through 2005 are closed tax years under Arizona's statute of limitations. The only way to recover withholding from tax years 1977 through 2005 is by making a claim under the Native American Veterans Income Tax Settlement Fund.

Q6. How long is the Native American Veterans Income Tax Settlement Fund open?

A6. The Native American Veterans Income Tax Settlement Fund was established July 1, 2016. The Department of Veterans' Service may not accept claims after December 31, 2019. The Department of Revenue will not grant refunds after June 30, 2021. Any money

left in the Native American Veterans Income Tax Settlement Fund on July 1, 2021 will be swept into the general fund.

Q7. What does the claimant have to demonstrate?

A7. Produce DD-214 or other proof of military service provided by the United States Department of Defense, B. Sign a statement declaring they were an enrolled member of their tribe while serving in the military, C. Produce evidence of domicile while serving in the military, D. Show Arizona income tax was withheld (W-2) and E. Sign a statement that the Arizona income tax was not refunded.

Q8. What must a claimant do in addition to the general requirements if the veteran is deceased?

A8. In addition to the requirements listed in Question and Answer #7 above, a claimant who is a surviving spouse or personal representative must produce the veteran's death certificate to make a claim. A personal representative must also sign a statement confirming they are the decedent's personal representative and produce a copy of the claimant's appointment. If the claimant is a not a surviving spouse or personal representative they must sign a statement that the estate is worth less than \$30,000, that 30 days have passed since the decedent's death and that they are the rightful successor.

Q9. How does the application process work?

A9. The claimant sends their completed forms along with any relevant paper work to the Department of Veterans' Services. Veterans' Services has 210 days to accept or reject the claim. Claims accepted by the Department of Veterans' Services are then sent to the Department of Revenue. The Department of Revenue has 210 days to approve or reject claims. The Department of Revenue will issue refunds to claimants with valid claims.

Q10. What forms are used to make a claim?

A10. Arizona Form NASF is used for general claims, Arizona Form NASF-D is an additional form for claimants if the veteran is deceased and Arizona Form NASF-RS is a form used to substantiate the veteran's residency.

Q11. Where do I find the application forms?

A11. The application forms are available to download online at <https://dvs.az.gov> or <https://www.azdor.gov>

Q12. Where do I mail my completed forms?

A12. Arizona Department of Veterans' Services
Attention: NASF
3839 N. 3rd Street, Suite 209
Phoenix, AZ 85012

Q13. Who may make a claim?

A13. Native American veterans who had Arizona income tax withheld from their active duty military pay while domiciled on their reservation. If the veteran is deceased the surviving spouse or personal representative may make a claim. If anyone other than the surviving spouse or personal representative (e.g., child of the veteran) makes a claim they must show the value of decedent's estate was less than \$30,000.

Q14. How are claims paid?

Q14. On a first-come, first-served basis until the fund is exhausted.

Q15. Is interest paid on the refunds?

A15. Yes, settlement payments shall include interest computed on a daily basis from the date of a timely filed return.

Q16. Are refunds subject to setoffs?

A16. Yes, the refunds are subject to setoffs consistent with A.R.S. § 42-1122. Examples of setoffs would include back taxes, overdue child support and unpaid court fees.

Q17. What if I do not have my DD-214 or other proof of military service?

A17. Arizona Form NASF includes a check box allowing the claimant to authorize the Arizona Department of Veterans' Services to obtain their DD-214 or other proof of military service on their behalf from the United States Department of Defense. Please attach and sign Form SF-180 and attach it to your application.

Q18. What if I do not have my old W-2's?

A18. Arizona Form NASF includes a check box allowing the claimant to authorize the Arizona Department of Revenue to obtain prior year W-2's on their behalf from the United States Department of Defense.

Q19. What if I had Arizona withholding from my active duty military pay while I was domiciled on my reservation, but did not file an Arizona income tax return for those years?

A19. Even if you did not file an Arizona return during those years you are still eligible for a refund of your active duty military pay withholding including accrued interest, however any refunds paid are subject to setoffs consistent with A.R.S. § 42-1122.

Q20. What if my claim is denied?

A20. If the claim is denied by the Arizona Department of Veterans' Services the appealed case will go to the Office of Administrative Hearings. If the claim is denied by the Department of Revenue the appealed case will be considered a contested case heard by the Department of Revenue's Hearing Officer.

Q21. What is the status of my refund claim?

A21. If the application for refund is still being processed at Arizona Department of Veterans' Services the contact information is

Arizona Department of Veterans' Services
Attention: NASF
3839 N 3rd Street, Suite 209
Phoenix, AZ 85012
Phone Number: 602-255-3373
Email Address: NASF@AZDVS.GOV

If the application for refund is being processed by the Arizona Department of Revenue the contact information is

Arizona Department of Revenue
Attention: NASF
1600 W Monroe, Mail Code 1400
Phoenix, AZ 85007-2650
Phone Number: 602-716-6027
Email Address: NASF@azdor.gov

This publication is available in an alternative format upon request.

Please complete this application for a settlement payment if you are a Native American Veteran who maintained a home on tribal land during your military service between the years 1977 - 2005 and had Arizona income tax withheld on any of your active duty military pay.

Mail completed Form NASF, *Native American Veterans Income Tax Settlement Fund Claim*, and attachments to:
Arizona Department of Veterans' Services
Attention: NASF
3839 N. 3rd Street, Suite #209
Phoenix, AZ 85012

Telephone number: Arizona Department of Veteran Services: (602) 255-3373

Arizona Department of Revenue: (602) 716-6027

| | | |
|--|-------------------------|------------------------|
| Part 1 Veteran's Information | | |
| Veteran's First Name and Middle Initial | Last Name | Social Security Number |
| Name of Veteran as indicated on DD Form 214 (if different) | | Veteran's Phone Number |
| Address | Veteran's Email Address | |
| City | State | ZIP Code |

| | |
|--|---|
| Part 2 Veteran Status as a Native American | |
| Name of Arizona Federally Recognized Indian Tribe of which the Veteran or Spouse is an Enrolled Member | Spouse's Name (if spouse is an enrolled member) |

| | | |
|--|--|----|
| Part 3 Military Service | | |
| Enter the branch of service and the dates of active duty in the Armed Forces of the United States. To verify the active duty period, attach Form(s) DD Form 214 and mark the box below indicating that the form(s) is attached or mark the box to authorize the Department of Veterans' Services to request a copy of the form from the Department of Defense. | | |
| Branch of Service | Date of Military Service (Between 1977-2005) | |
| | From | To |
| | | |
| | | |
| | | |
| Check One: | | |
| <input type="checkbox"/> DD Form 214 is attached, or | | |
| <input type="checkbox"/> I completed and signed Form SF-180 authorizing the Department of Veterans' Services to request a copy of the claimant's DD Form 214 from the Department of Defense. | | |
| Please Note: Failure to provide a DD-214 or SF-180 will result in the denial of the claim. | | |

| | |
|---|--|
| Part 4 Residency on Tribal Land during Period of Active Duty | |
| Check One: | |
| <input type="checkbox"/> The address on DD Form 214 was the claimant's (or claimant's spouse's) home of record address for the entire period of the claimant's military service covered by this claim, and is located on the tribal land to which the claimant or the claimant's spouse is a member, or | |
| <input type="checkbox"/> The address on DD Form 214 was not the claimant's (or claimant's spouse's) home of record address for the entire period of the claimant's military service covered by this claim, or is not located on tribal land to which the claimant or the claimant's spouse is a member. A completed Arizona Form NASF-RS, Native American Veterans Income Tax Settlement Fund Claim Residency Statement, is attached. | |

| | | |
|---|-----------|------------------------|
| Part 5 Deceased Veteran (only complete if veteran is deceased) | | |
| Veteran's Date of Death | | |
| M M D D Y Y Y Y | | |
| If the refund must be made payable to a person other than the veteran, enter the name and SSN of the person entitled to claim the refund. Otherwise, the check will be made payable to the estate of the decedent. | | |
| Spouse, Other Successor, or Personal Representative's First and Middle Initial | Last Name | Social Security Number |
| Check the following two boxes to indicate that the required document is attached: | | |
| <input type="checkbox"/> Attach a copy of the death certificate or other proof of death. (An original or an authentic copy of a telegram or letter from the Department of Defense notifying the next of kin of the decedent's death will constitute proof of death.) Proof of death <i>must</i> be attached if the veteran is deceased. | | |
| <input type="checkbox"/> Attach a signed and dated Arizona Form NASF-D, <i>Claim for Refund on Behalf of Deceased Native American Veteran</i> . Complete this form even if you were the spouse of the veteran at the time of death. | | |

State of Arizona - Department of Veterans' Services
Native American Veterans Income Tax Settlement Fund Claim
Residency Statement

Purpose of This Form: A claimant for a settlement payment from the Native American Veterans Income Tax Settlement Fund must substantiate residency on Indian tribal land during the period(s) any Arizona Individual income tax was withheld from active duty military pay. The veteran must be a resident within the boundaries of the Indian member's or the member's spouse's reservation or within the boundaries of lands held in trust by the United States for the benefit of the member or spouse or the member's or spouse's tribe. If the address shown on the claimant's DD Form 214 is not on tribal land, or the claimant cannot establish that the address is on tribal land, or the address was not the claimant's address of record for the entire period for which the claim is being made, the claimant must provide the following statement signed by the claimant and attested by a tribal governor, president or designee of the governor or president.

Veteran's Information

| | | |
|---|-----------|------------------------|
| Veteran's First Name and Middle Initial | Last Name | Social Security Number |
|---|-----------|------------------------|

| Home of record (physical address or description) during period of active duty military service | Dates of Residency From: M M D D Y Y To: M M D D Y Y | Indicate the name of the Indian Tribe in which the address is located |
|--|--|---|
| | From: To: | |
| | From: To: | |
| | From: To: | |

Claimant

Under penalty of perjury, I declare that the address(s) listed above is the home of record established for the claimant (veteran) with the Department of Defense while in active duty military service.

Print Name of Veteran (if deceased, personal representative or legal successor) _____ Signature _____ Date _____

Tribal Governor, President or Designee of the Governor or President

Under penalty of perjury, I attest that each address or physical description of the location of the home of record listed above is located on the Indian tribal land as indicated.

Print Name of Tribal Governor, President, or Designee _____ Title _____

Signature _____ Date _____

INSTRUCTION AND INFORMATION SHEET FOR SF 180, REQUEST PERTAINING TO MILITARY RECORDS

1. General Information. The Standard Form 180, Request Pertaining to Military Records (SF180) is used to request information from military records. Certain identifying information is necessary to determine the location of an individual's record of military service. Please try to answer each item on the SF 180. If you do not have and cannot obtain the information for an item, show "NA," meaning the information is "not available". Include as much of the requested information as you can. Incomplete information may delay response time. To determine where to mail this request see Page 2 of the SF180 for record locations and facility addresses.

Online requests may be submitted to the National Personnel Records Center (NPRC) by a veteran or deceased veteran's next-of-kin using eVetRecs at <http://www.archives.gov/veterans/military-service-records/>.

2. Personnel Records/Military Human Resource Records/Official Military Personnel File (OMPF) and Medical Records/Service Treatment Records (STR). Personnel records of military members who were discharged, retired, or died in service **LESS THAN 62 YEARS AGO** and medical records are in the legal custody of the military service department and are administered in accordance with rules issued by the Department of Defense and the Department of Homeland Security (DHS, Coast Guard). STRs of persons on active duty are generally kept at the local servicing clinic. After the last day of active duty, STRs should be requested from the appropriate address on page 2 of the SF 180. (See item 3, Archival Records, if the military member was discharged, retired or died in service more than 62 years ago.)

a. **Release of information:** Release of information is subject to restrictions imposed by the military services consistent with Department of Defense regulations, the provisions of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. The service member (either past or present) or the member's legal guardian has access to almost any information contained in that member's own record. The authorization signature of the service member or the member's legal guardian is needed in Section III of the SF180. Others requesting information from military personnel records and/or STRs must have the release authorization in Section III of the SF 180 signed by the member or legal guardian. If the appropriate signature cannot be obtained, only limited types of information can be provided. If the former member is deceased, the surviving next-of-kin may, under certain circumstances, be entitled to greater access to a deceased veteran's records than a member of the general public. The next-of-kin may be any of the following: unremarried surviving spouse, father, mother, son, daughter, sister, or brother. Requesters **MUST provide proof of death, such as a copy of a death certificate, newspaper article (obituary) or death notice, coroner's report of death, funeral director's signed statement of death, or verdict of coroner's jury.**

b. **Fees for records:** There is no charge for most services provided to service members or next-of-kin of deceased veterans. A nominal fee is charged for certain types of service. In most instances, service fees cannot be determined in advance. If your request involves a service fee, you will receive an invoice with your records.

3. Archival Records. Personnel records of military members who were discharged, retired, or died in service **62 OR MORE YEARS AGO** have been transferred to the legal custody of NARA and are referred to as "archival records".

a. **Release of Information:** Archival records are open to the public. The Privacy Act of 1974 does not apply to archival records, therefore, written authorization from the veteran or next-of-kin is not required. In order to protect the privacy of the veteran, his/her family, and third parties named in the records, the personal privacy exemption of the Freedom of Information Act (5 U.S.C. 552 (b) (6)) may still apply and may preclude the release of some information.

b. **Fees for Archival Records:** Access to archival records are granted by offering copies of the records for a fee (44 U.S.C. 2116 (c)). If a fee applies to the photocopies of documents in the requested record, you will receive an invoice. Photocopies will be sent after payment is made. For more information see <http://www.archives.gov/st-louis/archival-programs/military-personnel-archival/ompf-archival-requests.html>.

4. Where reply may be sent. The reply may be sent to the service member or any other address designated by the service member or other authorized requester. If the designated address is NOT registered to the addressee by the U.S. Postal Service (USPS), provide BOTH the addressee's name AND "in care of" (c/o) the name of the person to whom the address is registered on the NAME line in Section III, item 3, on page 1 of the SF 180. The COMPLETE address must be provided, INCLUDING any apartment/suite/unit/lot/space/etc. number.

5. Definitions and abbreviations. DISCHARGED -- the individual has no current military status; SERVICE TREATMENT RECORD (STR) -- The chronology of medical, mental health, and dental care received by service members during the course of their military career (does not include records of treatment while hospitalized); TDRL -- Temporary Disability Retired List.

6. Service completed before World War I. National Archives Trust Fund (NATF) forms must be used to request these records. Obtain the forms by e-mail from inquire@nara.gov or write to the Code 6 address on page 2 of the SF 180.

PRIVACY ACT OF 1974 COMPLIANCE INFORMATION

The following information is provided in accordance with 5 U.S.C. 552a(e)(3) and applies to this form. Authority for collection of the information is 44 U.S.C. 2907, 3101, and 3103, and Public Law 104-134 (April 26, 1996), as amended in title 31, section 7701. Disclosure of the information is voluntary. If the requested information is not provided, it may delay servicing your inquiry because the facility servicing the service member's record may not have all of the information needed to locate it. The purpose of the information on this form is to assist the facility servicing the records (see the address list) in locating the correct military service record(s) or information to answer your inquiry. This form is then retained as a record of disclosure. The form may also be disclosed to Department of Defense components, the Department of Veterans Affairs, the Department of Homeland Security (DHS, U.S. Coast Guard), or the National Archives and Records Administration when the original custodian of the military health and personnel records transfers all or part of those records to that agency. If the service member was a member of the National Guard, the form may also be disclosed to the Adjutant General of the appropriate state, District of Columbia, or Puerto Rico, where he or she served.

PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT

Public burden reporting for this collection of information is estimated to be five minutes per request, including time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to National Archives and Records Administration (ISSD), 8601 Adelphi Road, College Park, MD 20740-6001. **DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. SEND COMPLETED FORMS TO THE APPROPRIATE ADDRESS LISTED ON PAGE 2 OF THE SF 180.**

REQUEST PERTAINING TO MILITARY RECORDS

Requests from veterans or deceased veteran's next-of-kin may be submitted online by using eVetRecs at <http://www.archives.gov/veterans/military-service-records/>
To ensure the best possible service, please thoroughly review the accompanying instructions before filling out this form. PLEASE PRINT LEGIBLY OR TYPE BELOW.

SECTION I - INFORMATION NEEDED TO LOCATE RECORDS (Furnish as much information as possible.)

| | | | |
|--|----------------------|------------------|-------------------|
| 1. NAME USED DURING SERVICE (last, first, full middle) | 2. SOCIAL SECURITY # | 3. DATE OF BIRTH | 4. PLACE OF BIRTH |
|--|----------------------|------------------|-------------------|

| 5. SERVICE, PAST AND PRESENT (For an effective records search, it is important that ALL service be shown below.) | | | | | | |
|--|-------------------|--------------|---------------|---------|----------|---|
| | BRANCH OF SERVICE | DATE ENTERED | DATE RELEASED | OFFICER | ENLISTED | SERVICE NUMBER (If unknown, write "unknown") |
| a. ACTIVE | | | | | | |
| b. RESERVE | | | | | | |
| c. STATE NATIONAL GUARD | | | | | | |

6. IS THIS PERSON DECEASED? NO YES - *MUST* provide Date of Death if veteran is deceased: _____

7. DID THIS PERSON RETIRE FROM MILITARY SERVICE? NO YES

SECTION II - INFORMATION AND/OR DOCUMENTS REQUESTED

1. CHECK THE ITEM(S) YOU ARE REQUESTING:

DD Form 214 or equivalent. Year(s) in which form(s) issued to veteran: _____
This form contains information normally needed to verify military service. A copy may be sent to the veteran, the deceased veteran's next-of-kin, or other persons or organizations, if authorized in Section III, below. **An UNDELETED DD214 is ordinarily required to determine eligibility for benefits.** If you request a DELETED copy, the following items will be blacked out: authority for separation, reason for separation, reenlistment eligibility code, separation (SPD/SPN) code, and, for separations after June 30, 1979, character of separation and dates of time lost.
An UNDELETED copy will be sent UNLESS YOU SPECIFY A DELETED COPY by checking this box: I want a DELETED copy.

Medical Records Includes Service Treatment Records, Health (outpatient) and Dental Records. *IF HOSPITALIZED (inpatient) the FACILITY NAME and DATE (month and year) for EACH admission MUST be provided:* _____

Other (Specify): _____

2. **PURPOSE:** (Providing information about the purpose of the request is **strictly voluntary**; however, it may help to provide the best possible response and may result in a faster reply. Information provided will in no way be used to make a decision to deny the request.)

Benefits (explain) Employment VA Loan Programs Medical Genealogy Correction Personal Other (explain)

Explain here: _____

SECTION III - RETURN ADDRESS AND SIGNATURE

1. **REQUESTER NAME:** _____

2. I am the MILITARY SERVICE MEMBER OR VETERAN identified in Section I, above. I am the VETERAN'S LEGAL GUARDIAN (*MUST submit copy of Court Appointment*) or AUTHORIZED REPRESENTATIVE (*MUST submit copy of Authorization Letter or Power of Attorney*)

I am the DECEASED VETERAN'S NEXT-OF-KIN (*MUST submit Proof of Death. See item 2a on instruction sheet.*) OTHER

(Relationship to deceased veteran) (Specify type of Other)

3. **SEND INFORMATION/DOCUMENTS TO:**
(Please print or type. See item 4 on accompanying instructions.)

Arizona Department of Veterans Services, Attn:NASF
Name
3839 North 3rd Street - Suite 209
Street Apt.
Phoenix AZ 85012
City State Zip Code

4. **AUTHORIZATION SIGNATURE:** I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the information in this Section III is true and correct and that I authorize the release of the requested information. (See items 2a or 3a on accompanying instruction sheet. Without the Authorization Signature of the veteran, next-of-kin of deceased veteran, veteran's legal guardian, authorized government agent, or other authorized representative, only limited information can be released unless the request is archival. No signature is required if the request is for archival records.)

* This form is available at <http://www.archives.gov/veterans-military-service-records/standard-form-180.pdf> on the National Archives and Records Administration (NARA) web site. *

| | |
|-----------------------------------|------------|
| Signature Required - Do not print | Date |
| () | () |
| Daytime phone | Fax Number |
| Email address | |