

The 2023 amendment, effective June 16, 2023, increased the nonresident crew credit, and rewrote the section.

Applicability. — Laws 2023, ch. 211, § 43 provided:

A. The provisions of Laws 2023, ch. 211, § 9 apply to taxable years beginning on or after January 1, 2023.

B. The provisions of Laws 2023, ch. 211, §§ 31 through 35 apply to film production companies that commence principal photography for a film or commercial audiovisual product on or after July 1, 2023.

ARTICLE 2G

New Mexico Filmmaker Tax Credit (Repealed.)

7-2G-1. Repealed.

History: Laws 2005, ch. 337, § 1; Laws 2006, ch. 78, § 3.

ANNOTATIONS

Repeals. — Laws 2006, ch. 78, § 3 repealed 7-2G-1 NMSA 1978, as enacted by Laws 2005, ch. 337, § 1, relating to the New Mexico filmmaker tax credit, effective July 1, 2006. For provisions of former section, see the 2005 NMSA 1978 on the *NMOneSource.com*.

ARTICLE 2H

Native American Veterans' Income Tax Settlement Fund

7-2H-1. Legislative findings.

A. Native Americans have had a long history of serving their country through active duty in the armed forces of the United States during periods of both war and peace and have made great sacrifices in serving their country through active duty in the military during periods of war and peace.

B. Native American veterans domiciled within the boundaries of their tribal lands or their spouse's tribal lands during their periods of active military service may have been exempt from paying state personal income taxes on their military income, but may have had state personal income taxes withheld from their military income.

C. Native American veterans now are barred by the state statute of limitations from claiming refunds of state personal income taxes that may have been withheld from their military income when they were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty, and even if not barred by the statute of limitations, the passage of time extending to decades will make it difficult for many Native American veterans to meet strict standards of proof that they are entitled to a refund of withheld state personal income taxes.

D. It is incumbent upon the state to ensure that it was not unjustly enriched by the withholding of state personal income taxes from Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty, and the state should 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 or their spouse's tribal lands during the period of their active military duty.

History: Laws 2008, ch. 89, § 1; 2009, ch. 289, § 1.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection B, after "veterans domiciled", deleted "on" and added "within the boundaries of their tribal lands or their spouse's tribal lands" and after "personal income taxes", deleted "improperly"; in Subsection C, in two places, before "withheld", deleted "improperly"; and between "military income" and "and even if not barred", added new language; in Subsection D, in two places, before "withheld", deleted "improperly"; between "Native American veterans" and "and the state should implement", added new language; and after "withheld from military", added the remainder of the sentence.

7-2H-2. Definition.

As used in Chapter 7, Article 2H NMSA 1978, "fund" means the Native American veterans' income tax settlement fund.

History: Laws 2008, ch. 89, § 2; 2009, ch. 289, § 2.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, deleted Subsection A, which defined "department"; and deleted Subsection C, which defined "secretary".

7-2H-3. Native American veterans' income tax settlement fund; created; purpose; appropriations.

A. The "Native American veterans' income tax settlement fund" is created as a nonreverting fund in the state treasury and shall be administered by the taxation and

revenue department. The fund shall consist of money that is appropriated or donated or that otherwise accrues to the fund.

B. The taxation and revenue department shall establish procedures and adopt rules as required to administer the fund and to make settlement payments from the fund as approved by the secretary of taxation and revenue.

C. Money in the fund is appropriated to the taxation and revenue department to make settlement payments to Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty and had state personal income taxes withheld from their military income, or to their heirs pursuant to applicable law. Settlement payments shall include the amount of state personal income taxes withheld from eligible Native American veterans that have not been previously refunded to the veterans and interest on the amount withheld from the date of withholding computed on a daily basis at the rate specified for individuals pursuant to Section 6621 of the Internal Revenue Code of 1986. No settlement payments shall be made for any taxable year for which a refund claim may be timely filed with the taxation and revenue department. Money shall be disbursed from the fund only on warrant of the secretary of finance and administration upon vouchers signed by the secretary of taxation and revenue or the secretary's authorized representative. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund.

D. Beginning in fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund is appropriated from the fund to the taxation and revenue department for expenditure in the fiscal year in which it is appropriated to administer the fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the Native American veterans' income tax settlement fund.

E. Beginning in fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund is appropriated from the fund to the veterans' services department for expenditure in the fiscal year in which it is appropriated to assist in outreach and public relations and in determining eligibility for settlement payments. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the Native American veterans' income tax settlement fund.

History: Laws 2008, ch. 89, § 3; 2009, ch. 289, § 3; 2018, ch. 52, § 1.

ANNOTATIONS

The 2018 amendment, effective May 16, 2018, removed the time limit for filing an application for a settlement claim from the Native American veterans' income tax settlement fund; in Subsection C, after "timely filed with the taxation and revenue department", deleted "or for which an application for settlement is received after December 31, 2012"; in Subsection D, after "shall revert to the", added "Native

American veterans' income tax settlement"; and in Subsection E, after "shall revert to the", added "Native American veterans' income tax settlement".

The 2009 amendment, effective June 19, 2009, in Subsection A, deleted the last sentence, which provided for investment of money in the fund by the state investment council; in Subsection C, in the first sentence, between "Native American veterans who" and "and the state personal income tax", added new language; added the second and third sentences; and added Subsections D and E.

7-2H-4. Duties of the secretary.

A. The secretary of veterans' services shall conduct a study in cooperation with the taxation and revenue department to determine whether Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty had state personal income taxes withheld from their military income and if so, to determine the amount of such state personal income taxes withheld and the number and identity of Native American veterans or their survivors affected by the withholding of such state personal income taxes.

B. The secretary of taxation and revenue and the secretary of veterans' services shall promulgate rules for a state program to compensate Native American veterans or their survivors for state personal income taxes withheld from military income while on active military duty and domiciled within the boundaries of the veteran's or the veteran's spouse's tribal lands.

C. The secretary of taxation and revenue shall report to the appropriate interim legislative committee no later than October 1 of each year regarding estimates of the amount of state personal income taxes withheld from the military income of Native American veterans domiciled on their respective tribal lands, the number of Native American veterans or their survivors affected by such withholding of state personal income taxes, total expenditures from the fund for the previous fiscal year and the anticipated appropriations to the fund needed to pay for settlements to be entered into for the next fiscal year.

History: Laws 2008, ch. 89, § 4; 2009, ch. 289, § 4.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, after "secretary", added "of veterans' services"; after "Native American veterans who are domiciled", deleted "on" and added "within the boundaries of their tribal lands or their spouse's"; after "withheld from their", deleted "pay" and added "military income"; before "withheld", deleted "improperly"; and before "withholding", deleted "improper"; in Subsection B, after "The secretary", added "of taxation and revenue and the secretary of veterans' affairs"; before "withheld", deleted "improperly"; and after "active military duty", added the remainder of the sentence; and in Subsection C, after "The secretary", added "of