

## **Native American Veterans' Income Tax Refund; Sub. for HB 2147**

**Sub. for HB 2147** creates a process by which certain Native American military veterans may apply for a refund of state personal income taxes improperly withheld from such veteran's federal military income in the amount of income taxes paid plus interest.

### ***Findings and Declarations***

The bill states the following findings and declarations:

- Native Americans have 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 fulfilling such duty;
- Native American veterans domiciled on their tribal lands during their periods of active military service may have been exempt from paying state income taxes on their military income, but may have had state income taxes improperly withheld from their military income; and
- Native American veterans are now barred by the statute of limitations from claiming refunds of state income taxes that may have been improperly withheld from their military income 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 such veterans are entitled to a refund of improperly withheld state income taxes.

### ***Refund***

The bill provides that on and after October 1, 2018, any Native American veteran domiciled within the boundaries of tribal lands in Kansas during the period of active military duty from tax years 1977 through 2001, and who had Kansas personal income taxes withheld from the veteran's federal military income, may apply to receive a refund of such income tax. The refund is equal to the amount of the tax actually paid by the veteran, plus interest accrued during the period from the original due date of the return through September 30, 2018. No application for refund is allowed after June 30, 2020.

### ***Eligible Applicants Other Than Veteran***

When a person eligible to receive a refund under this bill is deceased, the bill allows an application to be made on behalf of the estate of the deceased by a surviving spouse or by any heir-at-law.

### ***Fund***

The Native American Veterans' Income Tax Fund (Fund) is created by the Director of Taxation (Director) within the Kansas Department of Revenue. The Fund comprises moneys

collected under the Kansas Income Tax Act in an amount determined by the Director as necessary to meet refund requirements provided by the bill. Any additional moneys required for the Fund are transferred from the State General Fund and reported to the State Treasurer.

### **Report**

On or before February 1, 2019, and February 1, 2020, the Secretary of Revenue is required to report to the House Committee on Veterans and Military, the House Committee on Appropriations, and the Senate Committee on Ways and Means how the provisions of the bill are being administered, including the number of claimants receiving refunds and moneys expended.

### **“Native American” Defined**

A Native American eligible to receive refunds under this bill is defined as a member of the Prairie Band Potawatomi Nation of Kansas, the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe in Kansas, or the Sac and Fox Nation of Missouri in Kansas and Nebraska.

### **“Tribal Lands” Defined**

Persons eligible to receive refunds under this bill are defined as those domiciled within the following boundaries:

- *Iowa Tribe of Kansas and Nebraska.* Land as established by the treaty between the United States and the Tribe dated May 17, 1854, that is within the boundaries of the State of Kansas and does not include any land affected by the treaty between the United States and the Sauk and Foxes Tribes. No lands that have been or may be taken into trust by the United States may be included;
- *Kickapoo Tribe in Kansas.* Land granted in the treaty between the United States and the Tribe dated June 28, 1862;
- *Sac and Fox Nation of Missouri in Kansas and Nebraska.* Land granted in the treaty between the United States and the Tribe dated March 6, 1861, and ratified on February 6, 1863; or
- *Prairie Band Potawatomi Nation.* Land granted in Article 4 of the treaty with the Nation ratified on July 22, 1846, as modified by the treaties with the Nation ratified on April 15, 1862, and July 25, 1868.

### **Rules and Regulations**

The Secretary of Revenue has the authority to adopt rules and regulations as necessary to administer the provisions of the bill.