

Native Veterans Tax Issue

Good Morning everyone

My name is Richard Adame I served 20 years in the army from 1981-2001. I am a combat veteran with a 60% disability rating from the VA. I grew up in Mayetta on the reservation. I am a member of Prairie Band Potawatomi tribe. I joined the army from the reservation and I kept the reservation as my home of record the entire 20 years. I was taxed by Kansas approximately \$12,000 during my 20 years of service.

Deduction of state income taxes from the pay of American Indian veterans living on reservation land at the time of their entrance into active duty service was first prohibited by federal law under the Soldiers and Sailors Civil Relief Act of 1940, Section 514, and continued under the newer version of the law, the Service members Civil Relief Act of 2006, section 511e. Other laws and legal opinions uphold the protection of that pay.

Going as far back as July 1, 1977, The Department of Treasury, at the request of States, began to withhold state income taxes from military members (5 U.S.C 5517), *including those of reservation-domiciled Indian service members*. For 24 years (1977-2001) Indians who lived on reservations when they entered the military were improperly taxed by the respective states in which their reservations were located. Eventually 42 States had those taxes withheld, 26 of which had Indian reservations.

We are not asking for a traditional income tax refund which has a 3 year statute of limitations imposed upon it. We are not asking for a refund at all. We are asking Kansas to return the money that was illegally deducted from our military pay. For years the state of Kansas took money from the pockets of veterans that it was not legally entitled to. The veterans were unaware this money was taken and used to benefit the state of Kansas. We would like this committee to consider the money taken from our federal military wages as unclaimed property held by the state of Kansas.

On 13 Feb 2010 Kansas Senator Vicki Schmidts newsletter stated that a new law SB 479 Would allow the secretary of revenue to provide certain information(addresses) to the state treasurer to assist in locating owners of unclaimed property. It passed 40-0. The state treasurer reports there is approximately \$212 million dollars in unclaimed property.

Our Tribal veterans do not want to claim money that does not belong to us. We only ask the state of Kansas to calculate the amount of money it has unlawfully deducted from our military wages and put it in a separate unclaimed property account for us

The state of Kansas has several tribes with hundreds of veterans and family members of deceased veterans who will step forward to claim this unclaimed property. Kansas will not have to spend thousands of dollars to locate us.

We are not unknown citizens.

We ask that the state of Kansas obey the laws of this country and abide by the SSCRA of 1940 and pay back the money that was taken from our veterans.

I think it is admirable that Kansas is willing to go the extra mile to find the rightful owners of unclaimed property.

Lets not forget the unclaimed property, (in the form of wrongfully deducted taxes), that Kansas owes the Native American Veterans.

If this money is not going to be considered as unclaimed property but instead as tax revenue I want to read a statement According to the Kansas department of revenue frequently asked question for tax year 2009

The question below was asked

What if I am unable to pay my individual income tax due?

This is the answer given.

If you are not able to pay the full amount due, you should file your Kansas income tax return and pay as much as you can by the filing date. Penalties and interest will accrue on any unpaid balance until fully paid. Contact our department at 1-785-368-8222 to make arrangements to pay the remaining balance. Send a Kansas Payment Voucher (K-40V) with each payment being made. Payments must be made payable to Kansas Income Tax. Please write your Social Security number on the check or money order and on the voucher. If you filed a joint return, include your spouse's name and Social Security number on both your payment and the voucher.

My question to this committee is that since the Kansas department of revenue erroneously deducted taxes from the military pay of Native American Veterans... Can we expect the full amount be returned with penalties and interest?

On the state level, both New Mexico (in 2008) and Arizona (just this past May) have passed legislation to return these monies from their own state budgets.

Thank You

Richard A Adame

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Mayetta Ks 66509

RESOLUTION OF THE FOUR TRIBES IN KANSAS
Iowa Tribe of Kansas and Nebraska
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Prairie Band Potawatomi Nation
Sac and Fox Nation of Missouri in Kansas and Nebraska
RESOLUTION No. 2014- 110

Request Congress Restore Illegally Taxed Military Wages of Native American Veterans and Service Members

- Whereas:** Each of the four above named Indian Tribes in Kansas (the "Four Tribes") are federally-recognized and sovereign Indian Tribes and maintain a government to government relationship with the United States.
- Whereas:** The Four Tribes are each organized under the Indian Reorganization Act of June 18, 1934 (48 Stat.984) as amended by the Act of June 15, 1935 (49 Stat. 378).
- Whereas:** Historically, Native Americans serve the U.S. Military at a higher rate than any other ethnic group. Ensuring the welfare of tribal military veterans has been a sacred tradition since the founding of the United States and a cause for which they have put their lives at risk.
- Whereas:** Since 1977 the United States military withheld state income tax from the paychecks of Native American service members who were domiciled on Indian land. Under federal statutory law and federal legal principles related to state income taxation of Native American individuals, Native American military service members domiciled on Indian land are exempt from state income tax on their military pay.
- Whereas:** In 2001, the Department of Defense ended withholding state income tax from such Native American service members' pay in response to a memorandum opinion issued by the U.S. Department of Justice. The opinion stated that federal law and federal legal principles regarding the taxation of Native American individuals preempted the withholding of state income tax from the military pay of Native service members domiciled on Indian land.
- Whereas:** The U.S. Department of Defense currently provides Form 2058-2 enabling Native American Veterans who are domiciled on Indian land to prevent state income tax withholding from their military pay, however, this practice does nothing for the Veterans who were improperly taxed prior to 2001.
- Whereas:** The Four Tribes of Kansas have many tribal members who have served the United States through their military service and many of these Veterans were victims of this illegal taxation. The Four Tribes of Kansas greatly respect their tribal Veterans and the services they provided to the United States and thus, the Four Tribes support restoring improperly withheld pay to the eligible Native American Veterans and service members.
- Whereas:** The Four Tribes of Kansas urge the U.S. Congress to take action to restore the improperly withheld pay to the eligible Native American Veterans and service members. The Four Tribes of Kansas stand with the National Congress of American Indians in support of restoring pay improperly withheld as state income tax by the U.S. Military to eligible Native service members and veterans.

THEREFORE BE IT RESOLVED THAT THE Four Tribes in Kansas do hereby request that the U.S. Congress take immediate action to restore the improperly withheld pay to the eligible Native American Veterans and service members.

CERTIFICATION

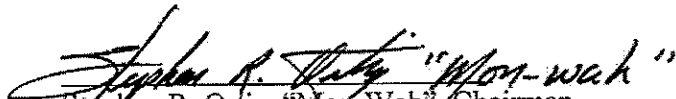
The foregoing Four Tribes Resolution was considered at their meeting on the 21st day of February 2014, at which all of them were present, and it has been duly approved by each of the Tribes.

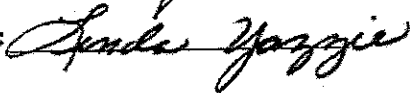
Iowa Tribe of Kansas and Nebraska


Tim Rhodd, Chairman

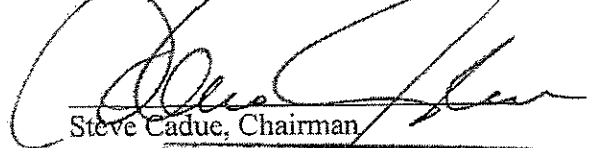
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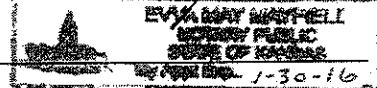
Prairie Band Potawatomi Nation


Stephen R. Ortiz, "Mon-Wah", Chairman

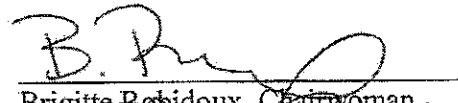
Attest: 

**Kickapoo Tribe of Indians of the
Kickapoo Reservation in Kansas**


Steve Cadue, Chairman

Attest: 
Evan Marshall

**Sac and Fox Nation of Missouri in Kansas
and Nebraska**


Brigitte Robidoux, Chairwoman

Attest: 