

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

# SENATE BILL 1187

## AN ACT

AMENDING LAWS 2016, CHAPTER 125, SECTION 21, AS AMENDED BY LAWS 2017, CHAPTER 215, SECTION 1; AMENDING LAWS 2016, CHAPTER 125, SECTION 22, AS AMENDED BY LAWS 2017, CHAPTER 215, SECTION 2; AMENDING LAWS 2016, CHAPTER 125, SECTION 26, AS AMENDED BY LAWS 2017, CHAPTER 215, SECTION 3; AMENDING LAWS 2016, CHAPTER 125, SECTION 28, AS AMENDED BY LAWS 2017, CHAPTER 215, SECTION 4; RELATING TO THE NATIVE AMERICAN VETERANS TAX SETTLEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Laws 2016, chapter 125, section 21, as amended by Laws  
3 2017, chapter 215, section 1, is amended to read:

4 Sec. 21. Veterans' income tax settlement fund; exemption from  
5 lapsing

6 A. The veterans' income tax settlement fund is established  
7 consisting of monies appropriated by the legislature and other monies  
8 donated or accruing to the fund. Monies in the fund are continuously  
9 appropriated to the department of revenue for the purposes of Laws 2016,  
10 chapter 125, sections 19 through 27.

11 B. The department of revenue shall administer the fund. On notice  
12 from the department, the state treasurer shall invest and divest monies in  
13 the fund as provided by section 35-313, Arizona Revised Statutes, and  
14 monies earned from investment shall be credited to the fund. Monies in  
15 the fund are exempt from the provisions of section 35-190, Arizona Revised  
16 Statutes, relating to lapsing of appropriations, except that unexpended  
17 and unencumbered monies remaining in the fund on June 30, ~~2021~~ 2023 revert  
18 to the state general fund.

19 C. Five percent of the monies in the fund at the beginning of each  
20 fiscal year are appropriated separately to both the department of revenue  
21 and the department of veterans' services for administrative costs incurred  
22 under Laws 2016, chapter 125, sections 19 through 27 ~~of this act~~ during  
23 the fiscal year. Any unexpended and unencumbered balance of either  
24 appropriation remaining at the end of the fiscal year reverts to the fund.

25 Sec. 2. Laws 2016, chapter 125, section 22, as amended by Laws  
26 2017, chapter 215, section 2, is amended to read:

27 Sec. 22. Income tax settlement claims; requirements;  
28 procedure; approval or denial of claim

29 A. A veteran or, if the veteran is deceased, the veteran's  
30 surviving spouse, personal representative, executor or other official  
31 representative of the estate, as designated pursuant to applicable state  
32 or tribal law or tradition, may file a claim for a settlement payment for  
33 any period of active duty in the armed forces of the United States during  
34 which the veteran:

35 1. Was an enrolled member of a tribe.

36 2. Maintained a domicile within the boundaries of the veteran's  
37 reservation or the reservation of the veteran's spouse or within the  
38 boundaries of lands held in trust by the United States for the benefit of  
39 the veteran, the veteran's spouse or the tribe of the veteran or spouse.

40 3. Had Arizona state income tax withheld from the veteran's active  
41 duty military pay on or after July 1, 1977 and before January 1, 2006, and  
42 the amount withheld:

43 (a) Has not already been refunded to the veteran or the deceased  
44 veteran's estate.

1 (b) Cannot be claimed as a refund by filing a state income tax  
2 return because the period for filing a claim for refund has lapsed under  
3 the applicable statute of limitations.

4 B. The claim for a settlement payment must include evidence of the  
5 veteran's eligibility for and the amount of the claim as follows:

6 1. The claimant must provide a copy of the veteran's certificate of  
7 release or discharge from active duty (DD Form 214) or other proof of  
8 service provided by the United States department of defense and approved  
9 by the department of veterans' services. If a claimant does not have a  
10 copy of the veteran's DD Form 214 or other proof of service, the claimant  
11 may request that the department of veterans' services request the  
12 veteran's DD Form 214 or other proof of service from the United States  
13 department of defense.

14 2. The claimant must provide a statement, signed by the claimant,  
15 that the veteran is or was duly registered on the tribal rolls of a tribe  
16 during the period or periods of the veteran's active duty in the armed  
17 forces.

18 3. The claimant must provide evidence of domicile within the  
19 boundaries of the veteran's reservation or the reservation of the  
20 veteran's spouse or within the boundaries of lands held in trust by the  
21 United States for the benefit of the veteran, the veteran's spouse or the  
22 tribe of the veteran or spouse during the taxable years the state income  
23 tax was withheld from active duty military pay. If the veteran's address  
24 shown on the veteran's DD Form 214 or other proof of service:

25 (a) Is on the veteran's tribal land, that evidence is sufficient  
26 for the purposes of this paragraph.

27 (b) Is not on the veteran's tribal land or if the veteran has no  
28 DD Form 214 and the claimant cannot otherwise establish that the veteran's  
29 domicile was on the veteran's tribal land, the claimant must provide a  
30 signed statement, under penalty of perjury, that the veteran was domiciled  
31 on tribal land during the period or periods the state income tax was  
32 withheld. The statement must include the veteran's address on the tribal  
33 land for each period, and an official designated by the tribe must attest  
34 that each address is on tribal land.

35 4. The claimant must provide evidence of the amount of state income  
36 tax withheld from active duty military pay by providing copies of the  
37 United States internal revenue service Form W-2 covering active duty  
38 military pay for the year or years during which state personal income tax  
39 was withheld. If the claimant does not have copies of the applicable Form  
40 W-2 for one or more of those years, the claimant may request that the  
41 department of revenue obtain the veteran's Form W-2, or other withholding  
42 information in a form approved by the department of revenue, from the  
43 United States department of defense.

44 5. The claimant must provide a signed statement attesting, under  
45 penalty of perjury, that the veteran has not received a refund of the

1 state income tax withheld for the years for which the claimant is filing a  
2 claim for a settlement payment.

3 C. A claim for settlement payment under this section must be filed  
4 by the eligible veteran or, if the veteran is deceased, by the veteran's  
5 surviving spouse, successor or other personal representative. The  
6 following apply if the claim is made for a deceased veteran:

7 1. The claimant must include a copy of the veteran's death  
8 certificate or other proof of death.

9 2. If the veteran's estate exceeds ~~thirty thousand dollars~~ \$30,000,  
10 only the surviving spouse, personal representative, executor or other  
11 official representative of the estate, as designated pursuant to  
12 applicable state or tribal law or tradition, may file the claim.

13 3. If the claimant is a successor who is not the surviving spouse,  
14 personal representative, executor or other official representative of the  
15 estate, the claimant must include a dated and notarized statement, signed  
16 under penalty of perjury, that:

17 (a) The value of the entire probate estate of the deceased veteran,  
18 wherever located, minus liens and encumbrances, does not exceed ~~thirty~~  
19 ~~thousand dollars~~ \$30,000.

20 (b) At least thirty days have elapsed since the veteran's death.

21 (c) The successor is entitled to receive the settlement payment.

22 4. If the claimant is a personal representative, executor or other  
23 official representative of the estate, the claimant must include:

24 (a) A signed, dated and notarized statement that the claimant has  
25 been duly appointed as the personal representative, executor or other  
26 representative of the veteran's estate pursuant to applicable state or  
27 tribal law or tradition.

28 (b) A copy of the claimant's appointment.

29 D. A claim for a settlement payment shall be denied for any amount  
30 of withholding tax that can be claimed as a refund by filing a state  
31 income tax return pursuant to title 43, Arizona Revised Statutes. A state  
32 income tax return may be filed by a veteran to claim the refund by the  
33 later of December 31 of the year three years after:

34 1. The veteran separated from military service.

35 2. The year in which Arizona withholding tax was withheld from the  
36 veteran's active duty pay.

37 E. A claim for a settlement payment must be made on a claim form  
38 prescribed by the department of revenue and filed with the department of  
39 veterans' services.

40 F. The department of veterans' services shall not accept claims  
41 submitted from and after December 31, ~~2019~~ 2021.

42 G. Within two hundred ten days after receiving a complete and  
43 correct claim form, the department of veterans' services shall determine  
44 whether the claim meets the requirements of subsection B, paragraphs 1, 2  
45 and 3 of this section, transmit qualifying claim forms to the department

1 of revenue and notify the claimant of the department's approval or denial.  
2 The failure of the department of veterans' services to respond within two  
3 hundred ten days after receiving a complete and correct claim form is  
4 considered to be a denial.

5 H. Within two hundred ten days after receiving the claim form from  
6 the department of veterans' services, the department of revenue shall  
7 determine whether the claim meets the requirements of subsection A,  
8 paragraph 3 and subsection B, paragraphs 4 and 5 of this section and  
9 notify the claimant and the department of veterans' services of its  
10 approval or denial. The failure of the department of revenue to respond  
11 within two hundred ten days after receiving the claim form is considered  
12 to be a denial.

13 Sec. 3. Laws 2016, chapter 125, section 26, as amended by Laws  
14 2017, chapter 215, section 3, is amended to read:

15 Sec. 26. Veterans' income tax settlement; annual reports

16 The director of the department of revenue shall report the following  
17 information to the senate appropriations and finance committees and to the  
18 house of representatives appropriations and ways and means committees on  
19 or before October 1 in each of years 2017 through ~~2021~~ 2023:

20 1. Estimates of the amount of state income tax withholdings subject  
21 to payments under Laws 2016, chapter 125, sections 22 and 23.

22 2. The number of veterans affected by withholdings subject to  
23 payments under Laws 2016, chapter 125, sections 22 and 23.

24 3. Expenditures from the veterans' income tax settlement fund  
25 during the previous fiscal year.

26 4. Anticipated expenditures from the veterans' income tax  
27 settlement fund during the current fiscal year.

28 5. Anticipated appropriations to the fund necessary to meet  
29 expected payments in the next fiscal year.

30 Sec. 4. Laws 2016, chapter 125, section 28, as amended by Laws  
31 2017, chapter 215, section 4, is amended to read:

32 Sec. 28. Repeal

33 Laws 2016, chapter 125, sections 19 through 26 are repealed from and  
34 after December 31, ~~2021~~ 2023.

35 Sec. 5. Retroactivity

36 This act applies retroactively to from and after December 31, 2019.