

**INDIVIDUAL INCOME TAX -  
CONTRIBUTION TO BOYS AND GIRLS  
CLUBS OF AMERICA**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: D. Chris Buttars**

**This act modifies the Individual Income Tax Act to enact provisions allowing a taxpayer to make a contribution to the Utah Alliance of Boys and Girls Clubs, Inc. in connection with the taxpayer's income tax return. The act has retrospective operation for taxable years beginning on or after January 1, 2003.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**59-10-551**, as last amended by Chapter 216, Laws of Utah 2001

ENACTS:

**59-10-550.5**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-10-550.5** is enacted to read:

**59-10-550.5. Checkoff and credit for Utah Alliance of Boys and Girls Clubs, Inc.**

**(1) Except as provided in Section 59-10-551, a taxpayer who files a return pursuant to Section 59-10-502 may designate on the return a contribution of the amount of the taxpayer's refund, if any, or any other amount in excess of \$1 to the Utah Alliance of Boys and Girls Clubs, Inc.**

**(2) (a) Any amount designated as a contribution under this section shall be deducted from the individual's state tax refund and, if a joint return, is a joint contribution.**

**(b) The option under this section is irrevocable during the tax year in which the option was effective.**

**(c) If no refund is due, the taxpayer may remit any contribution over \$1 with the return.**



28           (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
29 commission may adopt rules to implement this section.

30           (4) The commission shall determine annually the total amount designated under this  
31 section and shall report the amount to the state treasurer, who shall credit the amount to the  
32 Utah Alliance of Boys and Girls Clubs, Inc.

33           (5) This section applies to calendar-year taxpayers beginning January 1, 2003, and to  
34 fiscal-year taxpayers for any part of the taxable year accruing after December 31, 2003, and to  
35 each subsequent taxable year.

36           Section 2. Section **59-10-551** is amended to read:

37           **59-10-551. Removal of designation and prohibitions on collection for certain**  
38 **contributions on income tax form -- Conditions for removal and prohibitions on**  
39 **collection -- Commission reporting requirements.**

40           (1) (a) Beginning on January 1, 1998, if a contribution or combination of contributions  
41 described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years,  
42 the commission shall remove the designation for the contribution from the income tax return  
43 and may not collect the contribution from a taxpayer beginning two taxable years after the  
44 three-year period for which the contribution generates less than \$30,000 per year.

45           (b) The following contributions apply to Subsection (1)(a):

46           (i) the contribution provided for in Section 59-10-530;

47           (ii) the contribution provided for in Section 59-10-530.5;

48           (iii) the sum of the contributions provided for in:

49           (A) Subsection 59-10-549(1)(a); and

50           (B) Subsection 59-10-549(1)(b);

51           (iv) the sum of the contributions provided for in:

52           (A) Subsection 59-10-549(1)(c); and

53           (B) Subsection 59-10-549(1)(d);

54           (v) the contribution provided for in Subsection 59-10-549(1)(e); ~~or~~

55           (vi) the contribution provided for in Section 59-10-550~~[-];~~ or

56           (vii) the contribution provided for in Section 59-10-550.5.

57           (2) If the commission removes the designation for a contribution under Subsection (1),  
58 the commission shall report to the Revenue and Taxation Interim Committee that it removed

59 the designation on or before the November interim meeting of the year in which the  
60 commission determines to remove the designation.

61 Section 3. **Retrospective operation.**

62 This act has retrospective operation for taxable years beginning on or after January 1,  
63 2003.

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**Legislative Review Note**  
as of 2-12-03 3:28 PM

This legislation allows a taxpayer to make a contribution to the Utah Alliance of Boys and Girls Clubs, Inc., a private, non-profit entity, in connection with the taxpayer's income tax return. Article VI, Section 26 of the Utah Constitution prohibits special legislation. The Utah Supreme Court has defined special legislation as legislation that classifies the subject of the legislation unreasonably, by selecting a class of particular persons, places, or things to apply a privilege or burden that is not applied to others who are similarly situated. It is unclear whether a court would determine that the treatment of the Utah Alliance of Boys and Girls Clubs, Inc. in this legislation is unconstitutional special legislation. A court could uphold this legislation if the court finds that the classification is reasonable, that general legislation is unable to cover the same issues the special legislation covers, and that the special legislation accomplishes a public purpose.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0182**

**Individual Income Tax - Contribution to Boys and Girls  
Clubs of America**

17-Feb-03  
10:50 AM

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**State Impact**

Passage of this bill would have no state revenue impact. The Tax Commission would require an appropriation of \$12,400 to implement the provisions of the bill. There is a constitutional note attached to the bill which implies the State could bear the cost of any legal challenges.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Uniform School Fund	\$12,400	\$12,400	\$0	\$0
<b>TOTAL</b>	<b>\$12,400</b>	<b>\$12,400</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Individuals could donate to Boys and Girls Clubs through their income tax refund.

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**Office of the Legislative Fiscal Analyst**