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September 4, 1992

Honorable Vince T. Minto, C.R.A.
Glenn County Assessor
526 West Sycamore Street
Willows, CA 95988

Re: Valuation effect of Bankruptcy Code, Section 548

Dear Mr. Minto:

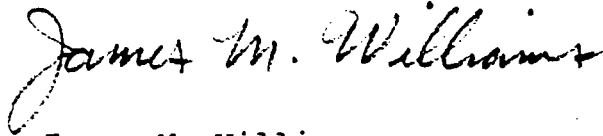
In your letter of July 17, 1992 to Mr. Les Sorensen, Chief Counsel, you requested our opinion as to whether or not Section 548 of the United States Bankruptcy Code can be taken into consideration as a land use restriction under California Revenue and Taxation Code, section 402.1.

In the situation presented to you the taxpayer made a successful competitive bid on the property via a trustee's sale in which the sale price came in at two-thirds of the fair market value. Pursuant to BC 548 the property could be redeemed within one year of the date of sale; therefore, the taxpayer has requested that his sale price be enrolled as the base year value because the risk of redemption is tantamount to a land use restriction pursuant to section 402.1.

We would recommend that you reject this request on the ground that the one year risk of loss is not a direct restriction on the use of the land as indicated in the statute. Those restrictions are governmentally imposed and control what may physically take place on the property over an indefinite period of time. In general 402.1 restrictions are based on public policy issues involving land use planning that will not be removed or substantially modified in the predictable future. Here the use of the parcel has not been regulated and it is

certain that the right of redemption will expire in one year.
Please refer to the LAND USE RESTRICTIONS section of the Property
Tax Law Guide, Volume 3, for additional examples.

Very truly yours,

A handwritten signature in cursive script that reads "James M. Williams". The signature is written in dark ink and is positioned above the typed name.

James M. Williams
Senior Staff Counsel

JMW:jd/A92-073

cc: Mr. John W. Hagerty
Mr. Verne Walton