

ADMINISTRATION OF ESTATES:

Debts due the United States under the State and Federal statutes are entitled to priority over other debts due by the deceased.

October 9, 1933.

Mr. D. B. Deem,
Probate Judge,
Poplar Bluff, Missouri.

Ac 3152 + 0-14 RS Mo 1929

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Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Does the debts due, under the Federal Loan Bureau, or under the Farm Bureau, supercede our state laws? Under our laws we grade the debts owing by a deceased, funeral expenses first, expenses of last illness second, etc. See Section 182, Revised Statutes of Missouri, 1929, which says demands against an estate shall be classed.

Shall I class Federal claims ahead of funeral or other claims? I have a letter which claims that I should class Federal claims ahead of all other claims, but I do not intend to do this unless I am compelled to by law. Please advise me in this matter."

Section 3152, R. S. Mo. 1929, provides as follows:

"Whenever any person indebted to the state of Missouri is insolvent, or whenever the estate of any deceased debtor in the hands of the executors or administrators is insufficient to pay all the debts due from the deceased, the debts due to the state of Missouri shall be first satisfied, and the priority hereby established shall extend as well to cases in which a debtor not having sufficient property to pay all his debts makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed: Provided, that nothing in this article contained shall be construed to interfere with the priority of the United States as secured by law, or the payment of the expenses of the last sickness, wages of servants, demands for medicine and medical attention during the last sickness of the deceased, nor funeral expenses."

Under the foregoing Section the state of Missouri expressly

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recognizes the priority to which the United States is entitled over and above other obligations.

Section 191 of chapter 6, title 31 of Mason's United States Code Annotated, provides as follows:

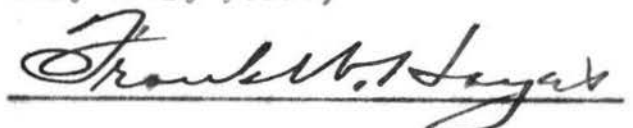
"Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority established shall extend as well to cases in which a debtor not having sufficient property to pay all his debts makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed."

Under the foregoing Section the United States, by statute, has reserved to itself priority over all other persons whenever the estate of any deceased debtor is insufficient to pay all the debts due from the deceased. The rule relating to the right of the United States to priority is stated in 24 C. J. 325, as follows:

"The statutes of several states in regard to the presentation of claims have, as a rule, no application to claims due the United States, either as a bar to the claims or as affecting their enforcement in the Federal Court."

Debts contracted in favor of the United States, therefore, are entitled to priority when the estate of a deceased is not sufficient to pay all debts. An obligation arising under the Federal Farm Loan Act we think is a debt "due the United States" within the meaning of Section 191, above cited. In view of the foregoing Sections, we are of the opinion that a debt due the United States is entitled to priority over and above all other debts and should be paid first after the expenses of administration have been paid. We think that the cost accruing from administration is entitled to be paid first, and after the cost of administration, debts due the United States are entitled to be paid next, before the demands which are classified in Section 182, R. S. Mo. 1929, are paid.

Very truly yours,



Assistant Attorney General.

FWH:S

APPROVED:

Attorney General.