***Estate of Kate S. Wilbanks, Deceased, Virginia Kate Nickerson, Personal Representative, Petitioner v. Commissioner of Internal Revenue, Respondent, 94 T. C. 306, 1990 U. S. Tax Ct. LEXIS 17, 94 T. C. No. 18 (1990)***

The IRS did not abuse its discretion in denying an extension request for filing an estate tax return when the request was made after the return's due date.

**Summary**

The Estate of Wilbanks case addressed the IRS's denial of a late-filed extension request for an estate tax return. The estate failed to file the return within nine months of the decedent's death and requested an extension three months after the due date. The court held that the IRS did not abuse its discretion in denying the extension because it was not requested before the due date. The court also found that the estate did not provide a plausible explanation for the delay in requesting the extension. While the issue of the estate's liability for a late-filing penalty remained unresolved, the court emphasized the importance of timely filing and requesting extensions in estate tax matters.

**Facts**

Kate S. Wilbanks died on March 6, 1984. Her estate was required to file a federal estate tax return by December 6, 1984. The estate's attorney, D. William Garrett, Jr. , had several communications with the IRS regarding the estate's matters before the due date. However, the estate did not file the return by the deadline, nor did it request an extension before that date. On March 8, 1985, the estate filed the return and simultaneously requested an extension to file and pay, which the IRS denied due to the late filing of the extension request. The estate argued that the IRS abused its discretion in denying the extension and that it had reasonable cause for the late filing.

**Procedural History**

The estate filed a petition with the U. S. Tax Court challenging the IRS's determination of a penalty for late filing under section 6651(a)(1). Both parties filed cross-motions for summary judgment. The Tax Court denied the estate's motion and granted the IRS's motion in part, holding that the IRS did not abuse its discretion in denying the extension request due to its late filing.

**Issue(s)**

1. Whether the IRS abused its discretion by denying the estate's application for an extension of time to file the estate tax return.
2. Whether the estate is liable for the addition to tax under section 6651(a)(1) for the late filing of the estate tax return.

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## Holding

1. No, because the estate failed to request the extension before the due date of the return and did not offer a plausible explanation for the delay.
2. Undecided, as there remains a factual dispute regarding whether the estate's failure to timely file was due to reasonable cause and not willful neglect.

## Court's Reasoning

The court applied the legal rule that an extension request for filing an estate tax return should be made before the return's due date, as outlined in section 20. 6081-1(b) of the Estate Tax Regulations. The court found that the estate's late request for an extension indicated negligence, which justified the IRS's denial. The court rejected the estate's argument that its communications with the IRS should have implied approval of a late extension request, emphasizing that the IRS has no affirmative obligation to remind taxpayers of filing deadlines. The court also noted that the estate's explanation for the late filing of the return did not address the timeliness of the extension request. The court cited *United States v. Boyle* to underscore the importance of strict filing standards in the tax system. While the court granted summary judgment on the abuse of discretion issue, it denied summary judgment on the issue of the late-filing penalty due to the existence of a factual dispute regarding reasonable cause.

## Practical Implications

This decision underscores the importance of timely filing estate tax returns and requesting extensions before the due date. Practitioners must advise clients to file extension requests well in advance of the return's due date to avoid potential penalties. The ruling also clarifies that ongoing communications with the IRS do not substitute for timely filing or requesting extensions. For similar cases, attorneys should be prepared to demonstrate reasonable cause for late filings if extensions are not requested on time. The decision may influence how the IRS handles late extension requests in the future and reinforces the need for taxpayers to adhere strictly to filing deadlines to avoid penalties.

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