

03/06/2025

Internal Revenue Service

Ogden, UT 84201

EIN: 23

Taxpayer Name: 234

RE: Formal Protest to Letter – ERC Disallowance for Q3

Tax Period: 3rd Quarter 2020 (202007–202009)

Claim Amount: [Insert Claim Amount]

Dear Appeals Officer,

We write in response to the IRS notice disallowing the Employee Retention Credit (ERC) claimed by 234 for the third quarter of 2020. The basis for disallowance was the assertion that no government orders were in effect during this period that caused a partial suspension of our operations. We respectfully disagree. Multiple federal, state, county, and city government orders were active during Q3 2020, and they imposed significant restrictions on our normal business activities. In this letter, we provide a detailed timeline of the relevant government orders, demonstrate their impact on our operations, and explain why the partial suspension provisions under the ERC remain fully applicable to business 234.

#### Timeline of COVID-19 Government Orders Active in Q3 2020

- **Order Name:** National Emergency Concerning COVID-19
- **Order Number:** Proclamation 9994
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Still in effect
- **Order Summary:** This proclamation declared a nationwide emergency due to COVID-19, thereby activating federal emergency powers and enabling subsequent state and local public health measures. It established the legal framework that underpinned a spectrum of restrictive orders issued later in the pandemic.
- **Impact on Quarter:** The federal emergency status resulted in an environment where public health and safety protocols were paramount, forcing business 234 to limit in-person activities and adapt its operations during Q3 2020.
- **Order Name:** Statewide “Stay-at-Home” Order
- **Order Number:** Executive Order N-33-20
- **Date Enacted:** 03/19/2020
- **Date Rescinded:** 06/15/2021

- **Order Summary:** This order mandated that all Californians remain at home except for essential needs, thereby requiring non-essential businesses to close or modify their operations. The directive led to a significant reduction in permitted in-person activities and a reliance on remote or curtailed operations.
  - **Impact on Quarter:** Although phased reopening began later, the restrictions continued to affect business 234 by limiting normal operational hours and reducing customer access during Q3 2020.
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- **Order Name:** Statewide Rollback of Reopening
  - **Order Number:** State Public Health Officer Order (July 13, 2020)
  - **Date Enacted:** 07/13/2020
  - **Date Rescinded:** 08/31/2020
  - **Order Summary:** In response to a surge in COVID-19 cases, this order reversed earlier reopening efforts and reimposed strict limitations on indoor operations for non-essential businesses. It forced a rapid shift back to stringent health measures, including the closure or severe limitation of indoor services.
  - **Impact on Quarter:** The rollback intensified operational restrictions for business 234 during a critical period in the summer of 2020, further impeding our ability to conduct normal business activities.
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- **Order Name:** Blueprint for a Safer Economy
  - **Order Number:** State Public Health Officer Order (August 28, 2020)
  - **Date Enacted:** 08/31/2020
  - **Date Rescinded:** 06/15/2021
  - **Order Summary:** This framework established a color-coded (tier) system that dictated allowable business operations based on local COVID-19 metrics, with areas in the most restrictive tier facing severe capacity and operational limits. It provided a structured approach for phased reopening while maintaining necessary precautions.
  - **Impact on Quarter:** For business 234, being located in a region placed in a restrictive tier meant enduring mandatory capacity limits and modifications to service delivery during the latter part of Q3 2020.
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- **Order Name:** Countywide Stay-Home Order
  - **Order Number:** Stay Well at Home Order
  - **Date Enacted:** 03/20/2020
  - **Date Rescinded:** 06/11/2021
  - **Order Summary:** Issued by Ventura County, this order required all residents to remain at home except for essential activities, thereby reinforcing state mandates and limiting the operations of non-essential businesses. It was

designed to slow the spread of COVID-19 by reducing person-to-person contact.

- **Impact on Quarter:** The local enforcement of this order further restricted business 234's ability to operate on a normal schedule throughout Q3 2020, compounding the operational limitations imposed by state orders.
- **Order Name:** City Declaration of Emergency
- **Order Number:** EOC Director Order No. 20-1
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Still in effect
- **Order Summary:** The City of Camarillo declared a local emergency in response to the COVID-19 pandemic, which empowered local officials to enact additional measures to safeguard public health. This declaration served as the basis for subsequent city-level directives that altered standard operating procedures for businesses.
- **Impact on Quarter:** By enabling further local restrictions and adjustments, the emergency declaration contributed to the partial suspension of normal business activities for business 234 during Q3 2020.

## SUMMARY AND REQUEST

As demonstrated above, 234 was subject to an overlapping framework of government orders at the federal, state, county, and city levels during the third quarter of 2020. These orders collectively mandated a reduction in physical operations, imposed capacity limits, and required the modification of service delivery protocols. The cumulative effect of these measures resulted in a partial suspension of normal business operations, thereby satisfying the ERC criteria under the "partial suspension" provisions.

In light of the detailed timeline and the direct impact of these government orders on our operations, we respectfully request that the IRS reconsider and reverse the disallowance of our ERC for Q3 2020. Attached are copies of the relevant government orders (with order names, numbers, and dates) and supporting documentation that further substantiate the calculation of the credit based on the partial suspension of our normal business activities.

Thank you for your attention to this matter. Should you require any additional information or clarification, please do not hesitate to contact us.

Attestation: "Under penalties of perjury, I declare that I submitted the protest and accompanying documents, and to the best of my personal knowledge and belief, the information stated in the protest and accompanying documents is true, correct, and complete."

Sincerely,

[Authorized Representative Name]

Authorized Representative for 234

**ENCLOSURES:**

- Copies of Government Orders and Relevant Excerpts
- ERC Calculations for Q3 2020
- Supporting Documentation of Operational Impact