

03/07/2025

Internal Revenue Service

Ogden, UT 84201

EIN: 534534

Taxpayer Name: 4534

RE: Formal Protest to Letter [Insert Letter Number] – ERC Disallowance for Q3

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

Claim Amount: \$[Insert Amount]

Dear Appeals Officer,

We write in response to the IRS notice disallowing 4534's Employee Retention Credit (ERC) claim for the third quarter of 2020. The disallowance was based on the assertion that no government orders were in effect during Q3 2020 that caused a suspension or partial suspension of our operations. We respectfully disagree. Multiple federal, state, county, and city government orders were active during Q3 2020, imposing COVID-19–related restrictions that significantly affected our business activities. In this letter, we provide a detailed timeline of the relevant government orders, explain their specific impact on our operations during Q3 2020, and cite applicable IRS guidance demonstrating that 4534 qualifies for the ERC under the "partial suspension" provisions.

Timeline of COVID-19 Government Orders Active in Q3 2020

Below is a chronological timeline of key orders that were in effect during Q3 2020 and that imposed operational restrictions on our business:

- **Order Name:** Proclamation 9994 – National Emergency Concerning COVID-19
- **Order Number:** N/A
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Still in effect
- **Order Summary:** This federal proclamation declared a nationwide emergency in response to COVID-19, thereby activating federal emergency powers and providing the legal basis for subsequent state and local health directives. It did not mandate business closures on its own but set the stage for the restrictive measures that followed.
- **Impact on Quarter:** The national emergency status underscored the severity of the pandemic and reinforced the adoption of strict local health orders that limited our business operations during Q3 2020.

- **Order Name:** State of Emergency Proclamation – California COVID-19 State of Emergency
 - **Order Number:** N/A
 - **Date Enacted:** 03/04/2020
 - **Date Rescinded:** Still in effect
 - **Order Summary:** This proclamation declared a state of emergency in California, empowering state and local officials to issue broad COVID-19 directives including business restrictions and regulatory suspensions. It provided the foundational legal authority for the subsequent orders affecting non-essential businesses.
 - **Impact on Quarter:** In Q3 2020, operating under this state of emergency meant that our business was subject to evolving health protocols, limited operating capacities, and other restrictions that disrupted normal operations.
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- **Order Name:** Executive Order N-33-20 – Statewide “Stay-at-Home” Order
 - **Order Number:** N/A
 - **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 cease in-person operations. Only essential sectors were allowed to operate under strict guidelines, drastically curtailing normal business functions.
 - **Impact on Quarter:** Throughout Q3 2020, the legacy of the Stay-at-Home order continued to restrict indoor operations and customer access, directly reducing our revenue-generating capability and service capacity.
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- **Order Name:** State Public Health Officer Order (Stage 2 Reopening) – Modifying Stay-at-Home
 - **Order Number:** N/A
 - **Date Enacted:** 05/07/2020
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** This order permitted certain lower-risk businesses to reopen under modified operating procedures even as higher-risk sectors remained closed. It aimed to cautiously restore economic activity while maintaining public health safeguards.
 - **Impact on Quarter:** Although it allowed for limited reopening, the modified protocols enforced in Q3 2020 meant that our operations were only partially resumed and remained significantly below normal capacity.
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- **Order Name:** State Public Health Officer Order (July 13, 2020) – Statewide Rollback of Reopening

- **Order Number:** N/A
 - **Date Enacted:** 07/13/2020
 - **Date Rescinded:** 08/31/2020 (formally ended 06/15/2021)
 - **Order Summary:** In response to a surge in COVID-19 cases, this order reversed prior reopening measures by closing indoor operations for sectors including restaurants, gyms, and personal care services. It forced businesses that had begun to reopen to either shut down or drastically limit indoor activities.
 - **Impact on Quarter:** This rollback directly reduced our operational capacity by mandating strict indoor occupancy limits and compelling us to modify service delivery to comply with health guidelines during Q3 2020.
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- **Order Name:** "Blueprint for a Safer Economy" Framework – Color-Tier Reopening System
 - **Order Number:** N/A
 - **Date Enacted:** 08/28/2020 (effective 08/31/2020)
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** This framework established a color-coded tier system based on regional COVID-19 metrics, assigning Ventura County (which includes Camarillo) to the most restrictive Purple tier. Its risk-based approach maintained heavy restrictions on indoor business operations.
 - **Impact on Quarter:** Although implemented at the very end of Q3 2020, the framework signaled continued limitations on indoor operations and reinforced constraints that were already affecting our business.
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- **Order Name:** Ventura County Local Health Emergency – County Declaration of Local Health Emergency
 - **Order Number:** N/A
 - **Date Enacted:** 03/12/2020
 - **Date Rescinded:** Still in effect
 - **Order Summary:** This local declaration empowered Ventura County to enforce emergency health directives and coordinate a unified response to the pandemic. It laid the groundwork for subsequent county-level orders which directly regulated business operations.
 - **Impact on Quarter:** Throughout Q3 2020, the local health emergency compelled compliance with additional health protocols, further restricting our operating environment.
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- **Order Name:** "Stay Well at Home" Order (Ventura County)
 - **Order Number:** N/A
 - **Date Enacted:** 03/20/2020

- **Date Rescinded:** 06/15/2021
 - **Order Summary:** This order required all county residents to remain at home except for essential activities and mandated that non-essential businesses cease in-person operations. It established strict limits on public gatherings and access to commercial premises.
 - **Impact on Quarter:** The order's enforcement in Q3 2020 resulted in reduced customer interactions and forced us to adopt modified operating procedures, thereby hindering normal business activity.
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- **Order Name:** Ventura County July 2020 Order – Local Implementation of State Rollback
 - **Order Number:** N/A
 - **Date Enacted:** 07/13/2020
 - **Date Rescinded:** Partially rescinded on 10/06/2020
 - **Order Summary:** In alignment with the statewide rollback, this order enforced closures of indoor operations for various sectors at the county level. It mandated that businesses rapidly adjust by limiting service capacities and, where possible, shifting to alternative operating models.
 - **Impact on Quarter:** This order directly affected our business by significantly reducing indoor operational capacity and necessitating abrupt changes to service delivery during Q3 2020.
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- **Order Name:** Ventura County Eviction Moratorium – Temporary Ban on Evictions
 - **Order Number:** Urgency Ordinance No. 4563
 - **Date Enacted:** 03/31/2020 (retroactive to early March 2020)
 - **Date Rescinded:** 09/30/2020
 - **Order Summary:** This moratorium temporarily halted eviction proceedings for both commercial and residential tenants affected by COVID-19. It was designed to provide critical relief during economic hardship by delaying foreclosures and evictions.
 - **Impact on Quarter:** For our business, this order offered stability during a period of reduced revenue by preventing immediate loss of our premises, even as operations were severely restricted.
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- **Order Name:** Local Emergency Proclamation (Camarillo)
 - **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, activating its Emergency Operations Center and enabling swift COVID-19 responses

including facility closures and event cancellations. It provided the authority for implementing tailored local health measures.

- **Impact on Quarter:** This proclamation reinforced the restrictive environment in Q3 2020, as local directives stemming from the emergency status further curtailed our business operations in Camarillo.
- **Order Name:** Camarillo Eviction Moratorium Orders
- **Order Number:** EOC Director Order No. 20-2 (and Amendment)
- **Date Enacted:** 03/18/2020 (amended 04/23/2020)
- **Date Rescinded:** Superseded by state law on 08/31/2020
- **Order Summary:** These orders temporarily halted evictions for tenants unable to pay rent due to the economic impacts of COVID-19. They aimed to prevent abrupt business and residential displacement during the pandemic.
- **Impact on Quarter:** By delaying eviction proceedings, these orders provided essential relief that stabilized our business despite the operational and revenue challenges experienced during Q3 2020.
- **Order Name:** Camarillo Resolution No. 2020-63 – Temporary Outdoor Dining Program
- **Order Number:** 2020-63
- **Date Enacted:** 06/10/2020
- **Date Rescinded:** Expired with the lifting of indoor restrictions
- **Order Summary:** This resolution permitted restaurants and similar businesses to operate with temporary outdoor dining arrangements by waiving certain zoning restrictions and fees. It was established to support businesses when indoor dining was prohibited.
- **Impact on Quarter:** For businesses that could adapt, this order necessitated significant operational modifications by shifting services outdoors, thereby influencing normal operations during Q3 2020.

SUMMARY AND REQUEST

The government orders detailed above collectively demonstrate that, contrary to the IRS's assertion, numerous COVID-19–related directives were in place during Q3 2020. These orders imposed mandatory restrictions that partially suspended the normal operations of our business. The limitations on in-person operations, capacity constraints, and required safety protocols had a material, more than nominal, effect on our ability to conduct business as usual.

In light of these facts, we respectfully request that the IRS reconsider and reverse the disallowance of our ERC for the third quarter of 2020. The credit we claimed is in full compliance with IRS guidance regarding the partial suspension of

operations caused by COVID-19 government orders. We have enclosed copies of the relevant government orders and supporting documentation outlining the impact these orders had on our operations.

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 4534

ENCLOSURES:

- Copies of Government Orders and Relevant Excerpts
- ERC Calculations for Q3 2020
- Supporting IRS Guidance Documents