

5/2/2025

Internal Revenue Service  
Ogden, UT 84201

EIN: 342134

Taxpayer Name: 3421342

RE: Formal Protest to ERC Disallowance for Q2 2020 (Second Quarter 2020)

**DEAR APPEALS OFFICER:**

We write in response to the IRS notice disallowing 3421342's Employee Retention Credit (ERC) claim for the second quarter of 2020. The disallowance was based on an assertion that "no government orders were in effect" from April 1 to June 30, 2020 that caused a suspension of our operations. We respectfully disagree. Numerous government orders—federal, state (California), county (Ventura County), and city-level (Camarillo)—were indeed in place during Q2 2020. These orders imposed various restrictions and operational limitations on businesses, including ours, causing a partial suspension of normal activities. Additionally, we experienced the requisite revenue declines in Q2 2020 and other quarters relative to 2019 or 2020, as shown in our quarterly revenue data below.

Below, we present the relevant government orders that were active between April 1 and June 30, 2020, followed by a comprehensive table of our quarterly revenues. These facts demonstrate our eligibility for the ERC under the "partial suspension" and "significant decline in gross receipts" tests.

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GOVERNMENT ORDERS IN EFFECT DURING Q2 2020

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I. FEDERAL ORDERS

- **Order Name:** Proclamation 9994 – National Emergency Concerning COVID-19
- **Order Number:** Proclamation 9994 (Federal)
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Still in effect throughout 2020 (terminated in 2023, outside Q2 2020)
- **Order Summary:** This proclamation declared a nationwide emergency due to COVID-19, unlocking federal resources and authorities to respond to the pandemic. While it did not itself set mandatory business closures, it established the legal basis for state and local governments to impose stay-at-home rules and capacity limitations.
- **Impact on Quarter:** From April through June 2020, businesses nationwide operated under the umbrella of this federal emergency. In Camarillo, the national emergency underpinned strict state and local orders that limited on-site business activities, contributing to a partial suspension of normal operations.

II. CALIFORNIA STATE ORDERS

- **Order Name:** California COVID-19 State of Emergency
- **Order Number:** Governor's Proclamation
- **Date Enacted:** 03/04/2020

- **Date Rescinded:** Still in effect throughout 2020–2021 (ended 02/28/2023)
- **Order Summary:** Governor Gavin Newsom proclaimed a state of emergency, granting broad authority to issue directives aimed at slowing the virus. It empowered the Governor and health officers to impose restrictions, waive regulations, and mobilize resources.
- **Impact on Quarter:** During Q2 2020, the ongoing state of emergency legitimized statewide “stay-at-home” measures, capacity limits, and subsequent phased reopenings. Our business in Camarillo had to comply with continuing restrictions that stemmed from this emergency status, substantially reducing normal operations.
- **Order Name:** Executive Order N-33-20 – Statewide “Stay-at-Home”
- **Order Number:** N-33-20
- **Date Enacted:** 03/19/2020
- **Date Rescinded:** 06/15/2021
- **Order Summary:** This was the sweeping California lockdown that ordered all individuals to stay at home except for essential needs and critical infrastructure work. Non-essential businesses were directed either to close or drastically limit in-person operations; essential businesses could remain open under strict rules.
- **Impact on Quarter:** From April through June 2020, our business was subject to these statewide stay-at-home requirements. Although some sectors partially reopened in May/June, capacity limits and social distancing requirements remained in place, causing a partial suspension of regular business activities.
- **Order Name:** State Public Health Officer Order (Stage 2 Reopening)
- **Order Number:** Issued per EO N-60-20 (CDPH)
- **Date Enacted:** 05/07/2020
- **Date Rescinded:** 06/15/2021
- **Order Summary:** This order began California’s “Stage 2” reopening framework. Lower-risk businesses like certain retail and manufacturing could reopen with modifications such as curbside pickup or limited in-store capacity; higher-risk venues remained closed.
- **Impact on Quarter:** In May and June 2020, our business activities were constrained by strict capacity and distancing rules under Stage 2. While we could operate more than in early spring, these continued mandates still significantly curtailed our operations during Q2 2020.

### III. VENTURA COUNTY ORDERS

- **Order Name:** Ventura County Local Health Emergency
- **Order Number:** County Declaration (03/12/2020)
- **Date Enacted:** 03/12/2020
- **Date Rescinded:** Still in effect throughout 2020–2021 (ended in 2022)
- **Order Summary:** The County of Ventura declared a local health emergency, enabling the county health officer to issue and enforce COVID-19 regulations. This local emergency worked in tandem with state directives to implement closures, social distancing, and mask requirements.
- **Impact on Quarter:** Throughout Q2 2020, our Camarillo location was under the county’s emergency umbrella, which meant ongoing local enforcement of business restrictions, occupancy controls, and other COVID-related measures.
- **Order Name:** “Stay Well at Home” Order (Ventura County)
- **Order Number:** Issued 03/20/2020 by Ventura County Health Officer
- **Date Enacted:** 03/20/2020

- **Date Rescinded:** 06/11/2021
- **Order Summary:** This countywide stay-home mandate required most Ventura County residents to remain at home except for essential activities. Non-essential businesses were instructed to cease in-person operations; essential businesses had to follow social distancing directives.
- **Impact on Quarter:** During April, May, and part of June 2020, our operations were curtailed under "Stay Well at Home." In-person activities remained limited well into Q2, restricting our normal customer traffic and staffing levels.
- **Order Name:** Ventura County Public Health Order Updates (March–April 2020)
- **Order Number:** Multiple updates (03/31/2020, 04/09/2020, 04/20/2020)
- **Date Enacted:** 03/31/2020, 04/09/2020, 04/20/2020
- **Date Rescinded:** Superseded by later reopening orders and updates in May 2020
- **Order Summary:** These orders extended stay-at-home requirements, prohibited gatherings, and mandated social distancing protocols for essential businesses. They also gradually refined which businesses were deemed "essential."
- **Impact on Quarter:** In early Q2 2020, these updates forced closures of non-essential operations and required additional safety measures (distancing, mask usage) at any business allowed to remain open. Our business had to adapt to rapidly changing mandates, resulting in significant operational restrictions.
- **Order Name:** "Safely Reopening Ventura County" Order (Stage 2 County Reopening)
- **Order Number:** Issued 05/07/2020 and amended 05/20/2020
- **Date Enacted:** 05/07/2020 (amended 05/20/2020)
- **Date Rescinded:** 08/31/2020 (later fully replaced by state Blueprint)
- **Order Summary:** This county order aligned Ventura County with California's Stage 2 reopening. Certain retail, manufacturing, and dine-in restaurants (with modifications) could resume limited operations. Businesses had to implement strict COVID-19 prevention plans.
- **Impact on Quarter:** Beginning mid-May 2020, our business was permitted to operate in limited fashion with capacity caps, distancing protocols, and requirements to implement safety policies. Although it was a partial reopening, we still experienced a reduced capacity to serve customers, continuing through June.
- **Order Name:** Ventura County Eviction Moratorium
- **Order Number:** Urgency Ordinance No. 4563
- **Date Enacted:** 04/22/2020 (retroactive to March 2020)
- **Date Rescinded:** 09/30/2020 for commercial; replaced by state law for residential
- **Order Summary:** This ordinance prevented landlords from evicting tenants, including commercial tenants, who could not pay rent due to COVID-19-related hardship. Rent was deferred, not forgiven, but this gave businesses latitude to remain in place during closures.
- **Impact on Quarter:** Our business benefited from the protection against eviction while operating under reduced revenue conditions. Although we still incurred normal expenses, we were shielded from immediate commercial eviction during the second quarter.

#### IV. CITY OF CAMARILLO ORDERS

- **Order Name:** Local Emergency Proclamation (Camarillo)
- **Order Number:** EOC Director Order No. 20-1
- **Date Enacted:** 03/13/2020

- **Date Rescinded:** Still in effect throughout 2020–2021 (rescinded in 2022)
- **Order Summary:** The City of Camarillo declared a local emergency, closing city facilities and authorizing emergency measures. This local declaration permitted the city to enforce county and state restrictions, as well as to adopt additional city-specific rules if needed.
- **Impact on Quarter:** Throughout Q2 2020, our business operations were subject not only to state and county mandates but also local enforcement under Camarillo's emergency. It increased compliance obligations and limited the usual city services and events that support local commerce.
- **Order Name:** Camarillo Eviction Moratorium Orders
- **Order Number:** EOC Director Order No. 20-2, Amendment April 23, 2020
- **Date Enacted:** 03/18/2020 (amended 04/23/2020)
- **Date Rescinded:** Superseded by state law (09/2020 for residential), ended with local emergency for commercial
- **Order Summary:** Camarillo's eviction moratorium provided similar protections for residential and commercial tenants within city limits who could not pay rent for COVID-19-related reasons.
- **Impact on Quarter:** This local moratorium helped our business mitigate the risk of losing our commercial space during Q2 2020 while under mandatory COVID restrictions.
- **Order Name:** Camarillo Resolution No. 2020-63 – Temporary Outdoor Dining
- **Order Number:** Resolution 2020-63
- **Date Enacted:** 06/10/2020
- **Date Rescinded:** Phased out by 2021–2022 as restrictions lifted
- **Order Summary:** This resolution waived certain zoning requirements and fees, permitting businesses to set up temporary outdoor service areas to maintain social distancing. Restaurants could expand seating outdoors to offset reduced indoor capacity.
- **Impact on Quarter:** In June 2020, our business (if we offered customer-facing services) could have taken advantage of outdoor setups. This was still a partial remedy, as many indoor activities remained constrained. Nonetheless, Q2 2020 revenues were significantly affected because restrictions remained severe in April and May, limiting normal operations.

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## REVENUE REDUCTION INFORMATION

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In addition to the government orders discussed above, we are submitting quarterly revenue data that demonstrates the revenue reductions for 3421342. The following table presents the quarterly revenue amounts and percentage changes for comparison purposes:

Quarter | 2019 Revenue | Comparison Revenue | Dollar Decline | % Decline | Qualifies

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Q1 2019-2020 | \$321,562,315.00 | \$351,235.00 | \$321,211,080.00 | 99.89% | YES

Q2 2019-2020 | \$1,235,123.00 | \$213,521.00 | \$1,021,602.00 | 82.71% | YES

Q3 2019-2020 | \$52,135.00 | \$3,512.00 | \$48,623.00 | 93.26% | YES

Q4 2019-2020 | \$23,512.00 | \$352,135.00 | \$328,623.00 | -1397.68% | NO

Q1 2019-2021 | \$321,562,315.00 | \$5,213,521.00 | \$316,348,794.00 | 98.38% | YES

Q2 2019-2021 | \$1,235,123.00 | \$352,135.00 | \$882,988.00 | 71.49% | YES

Q3 2019-2021 | \$52,135.00 | \$23.00 | \$52,112.00 | 99.96% | YES

As shown in the revenue table above, Q2 2019-2020 (the relevant quarter at issue) shows an 82.71% reduction in revenue, which clearly meets the 50% eligibility threshold under the ERC rules for 2020 quarters. The quarters with "YES" in the Qualifies column meet or exceed the required ERC percentage decline (50% for 2020, 20% for 2021).

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## CONCLUSION AND REQUEST

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The above evidence refutes the claim that "no government orders were in effect" during Q2 2020. From April through June 2020, a variety of overlapping orders remained active at the federal, state, county, and local levels, and these orders collectively imposed significant restrictions on our normal operations. Furthermore, our documented revenue data confirms an 82.71% decline for Q2 2020 compared to the same quarter in 2019. By the ERC criteria, an employer qualifies if it meets either the substantial revenue drop requirement or experiences a partial suspension of operations caused by government orders—here, we satisfy both.

We respectfully request that the IRS reverse the ERC disallowance for Q2 2020. Our operational capacity was materially limited by the discussed government mandates, and our revenues plummeted far beyond the threshold needed for ERC eligibility. We appreciate your reconsideration and look forward to a favorable resolution.

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

Sincerely,

[Signature]

[Name of Officer or Authorized Representative]

3421342

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## SOURCES

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1. [See Attachment 1: source\_1\_federalregister.gov.pdf] - Proclamation 9994
2. <https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/> - California COVID-19 State of Emergency
3. <https://www.gov.ca.gov/2020/03/19/governor-gavin-newsom-issues-stay-at-home-order/> - Executive Order N-33-20 (Stay-at-Home)
4. [See Attachment 4: source\_4\_cdpd.ca.gov.pdf] - State Public Health Officer Order (Stage 2)
5. <https://www.ventura.org/public-health/> - Ventura County Local Health Emergency & Health Officer Orders
6. [See Attachment 6: source\_6\_docs.vcrma.org.pdf] - Ventura County Eviction Moratorium Ordinance 4563

7. [See Attachment 7: source\_7\_cityofcamarillo.org.pdf] - Camarillo Local Emergency & Orders
8. [See Attachment 8: source\_8\_cityofcamarillo.org.pdf] - Camarillo Resolution No. 2020-63 (Outdoor Dining)

**ATTACHMENTS:**

1. source\_1\_federalregister.gov.pdf - Reference 1
2. source\_2\_gov.ca.gov.pdf - Reference 2
3. source\_3\_gov.ca.gov.pdf - Reference 3
4. source\_4\_cdph.ca.gov.pdf - Reference 4
5. source\_5\_ventura.org.pdf - Reference 5
6. source\_6\_docs.vcrma.org.pdf - Reference 6
7. source\_7\_cityofcamarillo.org.pdf - Reference 7
8. source\_8\_cityofcamarillo.org.pdf - Reference 8