

4/14/2025

Department of the Treasury
Internal Revenue Service

)0 0 556

CINCINNATI OH 45999-0038

EIN: 23-141243

Taxpayer Name: Eldenism

RE: Formal Protest to Letter 105 – ERC Disallowance for Q2

Tax Period: 2nd Quarter 2020 (202006)

DEAR APPEALS OFFICER:

We respectfully submit this formal protest in response to the IRS notice disallowing Eldenism's Employee Retention Credit ("ERC") claim for the second quarter of 2020. The notice states that our claim was disallowed because "no government orders were in effect" during that period that would have caused our business to suspend or limit operations. We disagree with that finding. Multiple federal, state, county, and city orders remained active during Q2 2020 and imposed COVID-19 restrictions that partially suspended Eldenism's normal operations.

Below, we present the relevant government orders, each of which was in force at some point during Q2 2020 (April 1 to June 30, 2020). While these orders varied in stringency, their net effect was to limit and restrict aspects of our routine activities, constituting a partial suspension under applicable IRS guidance.

SUMMARY OF GOVERNMENT ORDERS AFFECTING Q2 2020

- **Order Name:** Proclamation 9994 – National Emergency Concerning COVID-19
- **Order Number:** Proclamation 9994
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Later terminated by Congress in 2023 (thus still in effect during Q2 2020)
- **Order Summary:** Declared a nationwide emergency because of the COVID-19 outbreak. Activated federal emergency powers allowing states and localities to issue further lockdowns and restrictions.
- **Impact on Quarter:** Throughout Q2 2020, Eldenism operated under this federal national emergency context. It enabled subsequent state and local orders that restricted business operations.

- **Order Name:** California COVID-19 State of Emergency
 - **Order Number:** Governor's Proclamation (3/4/2020)
 - **Date Enacted:** 03/04/2020
 - **Date Rescinded:** Ended 02/28/2023 (still active in Q2 2020)
 - **Order Summary:** Declared a state of emergency in California to empower the Governor and health authorities to impose wide-ranging pandemic-related restrictions on businesses and gatherings.
 - **Impact on Quarter:** In Q2 2020, Eldenism remained under the state's emergency status, which justified continued public health orders limiting onsite operations and imposing significant compliance obligations.
-
- **Order Name:** Executive Order N-33-20 – Statewide "Stay-at-Home" Order
 - **Order Number:** N-33-20
 - **Date Enacted:** 03/19/2020
 - **Date Rescinded:** 06/15/2021 (thus in full force during Q2 2020)
 - **Order Summary:** Ordered California residents to stay at home except for essential needs or critical infrastructure jobs. Non-essential businesses were forced to close or shift to minimal basic operations, while essential sectors operated under strict protocols.
 - **Impact on Quarter:** In Q2 2020, Eldenism was compelled to reduce or reconfigure normal workflows, limiting in-person operations. Our staff were subject to stay-home obligations unless performing essential tasks. This significantly restricted our usual capacity and day-to-day business activities.
-
- **Order Name:** State Public Health Officer Order (Stage 2 Reopening)
 - **Order Number:** Issued per Executive Order N-60-20
 - **Date Enacted:** 05/07/2020
 - **Date Rescinded:** 06/15/2021 (still in effect during Q2 2020)
 - **Order Summary:** Allowed lower-risk businesses to reopen with modifications—such as curbside retail—while higher-risk establishments (e.g., dine-in restaurants, bars, salons, gyms) largely remained closed or heavily restricted.
 - **Impact on Quarter:** Although this order relaxed a portion of the March lockdown, Eldenism remained under multiple limitations during Q2 2020. Requirements such as social distancing, contactless transactions, and capacity constraints curtailed our normal operations.
-
- **Order Name:** Ventura County Local Health Emergency
 - **Order Number:** County Declaration (3/12/2020)
 - **Date Enacted:** 03/12/2020
 - **Date Rescinded:** Ended in 2022 (thus active in Q2 2020)
 - **Order Summary:** Established a local health emergency, allowing the County to issue and enforce business closures, gathering bans, and other local restrictions consistent with state mandates.

- **Impact on Quarter:** During Q2 2020, Eldenism had to comply with Ventura County directives (social distancing protocols, mask usage policies, limited onsite workforce), all rooted in this ongoing local health emergency declaration.
- **Order Name:** Ventura County "Stay Well at Home" Order
- **Order Number:** Issued 03/20/2020
- **Date Enacted:** 03/20/2020
- **Date Rescinded:** 06/15/2021 (in place for Q2 2020)
- **Order Summary:** Required Ventura County residents to stay home except for essential activities (food, healthcare, etc.) and directed non-essential businesses to close in-person operations.
- **Impact on Quarter:** In Q2 2020, Eldenism's standard business processes were interrupted. Remote work, skeleton staff onsite, and strict safety protocols were mandatory. This partial shutdown impaired normal business volume and services.
- **Order Name:** Ventura County Public Health Order Updates (April 2020)
- **Order Number:** Extensions and Protocols (e.g., 04/09/2020 order)
- **Date Enacted:** 04/09/2020
- **Date Rescinded:** Replaced by later County orders in May/June (but active in Q2 2020)
- **Order Summary:** Prohibited gatherings, required social-distancing protocols (including signage and limits on customers in stores), and placed additional safety restrictions on any essential businesses still open.
- **Impact on Quarter:** During April and much of May 2020, Eldenism operated subject to these rules, necessitating reduced capacity, staggered shifts, and enhanced sanitation—further limiting the scope of our in-person services.
- **Order Name:** Ventura County "Safely Reopening" Order
- **Order Number:** Issued 05/07/2020
- **Date Enacted:** 05/07/2020
- **Date Rescinded:** 08/31/2020 (superseded by State Blueprint) (still active in latter part of Q2 2020)
- **Order Summary:** Aligned Ventura County with Stage 2 guidelines, permitting certain businesses to reopen with safety measures (e.g., curbside retail, limited dine-in). Maintained capacity constraints, distancing requirements, and screening protocols.
- **Impact on Quarter:** Eldenism was able to resume some functions during late Q2 2020, but under strict modifications
- **Order Name:** Local Emergency Proclamation (Camarillo)
- **Order Number:** EOC Director Order No. 20-1
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Lifted in 2022 (in effect throughout Q2 2020)
- **Order Summary:** Declared a local emergency in the City of Camarillo, closing city facilities and allowing emergency rules for businesses (e.g., streamlined outdoor operations, eviction moratorium alignments).

- **Impact on Quarter:** In Q2 2020, Eldenism faced city-level modifications—no large gatherings at city venues, limited access to permitting authorities, and continuing oversight that kept business activities scaled back.

WHY THESE ORDERS PARTIALLY SUSPENDED OUR OPERATIONS

All of the above orders either mandated or strongly encouraged the reduction of in-person workforce, canceled gatherings, limited in-person customer engagement, imposed social distancing, and required safety protocols that fundamentally altered Eldenism’s day-to-day functions in Q2 2020. Although we diligently adapted by implementing remote work and curbside/limited-contact operations when feasible, we still experienced a significant disruption to our normal capacity.

IRS guidance (e.g., Notices 2021-20 and 2021-49, applied similarly to 2020 quarters) indicates that a government order causing more than a nominal effect on an employer’s operations qualifies as a partial suspension. In Q2 2020, such constraints forced us to curtail services, reduce on-site staffing, and limit customer interactions. This goes beyond minor operational tweaks—our ability to conduct normal business was materially restricted by law.

Accordingly, Eldenism meets the requirements for a partial suspension of operations due to COVID-19 government orders and is entitled to claim the ERC for Q2 2020 on that basis.

CONCLUSION AND REQUEST

We respectfully request that the IRS reverse its ERC disallowance for Eldenism for Q2 2020. Contrary to the statement that no government orders applied, our business was clearly subject to multiple overlapping orders from federal, state, county, and city authorities that imposed significant restrictions on our operations.

Under penalties of perjury, I declare that I have examined the facts presented in this protest (including any accompanying statements), and to the best of my knowledge and belief, they are true, correct, and complete.

Thank you for your consideration of this protest. If additional information is required, please contact us at your earliest convenience.

Sincerely,

[Signature of Authorized Individual]

[Title/Role, Eldenism]

SOURCES

1. [See Attachment 1: [source_1_bidenwhitehouse.archives.gov.pdf](#)] - Federal Proclamation 9994: National Emergency
2. [See Attachment 2: [source_2_gov.ca.gov.pdf](#)] - California COVID-19 State of Emergency
3. [See Attachment 3: [source_3_gov.ca.gov.pdf](#)] - Executive Order N-33-20 (California Stay-at-Home)
4. [See Attachment 4: [source_4_cdph.ca.gov.pdf](#)] - State Public Health Officer Order (Stage 2 Reopening, May 7, 2020)
5. [See Attachment 5: [source_5_vcportal.ventura.org.pdf](#)] - Ventura County Health Orders & Roadmap to Reopening
6. [See Attachment 6: [source_6_cms7files.revize.com.pdf](#)] - City of Camarillo Local Emergency & Related Measures

ATTACHMENTS:

1. [source_1_bidenwhitehouse.archives.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_vcportal.ventura.org.pdf](#) - Reference 5
6. [source_6_cms7files.revize.com.pdf](#) - Reference 6