

Form 886-A – Employee Retention Credit (ERC) Substantiation

DATE: 03/06/2025

1. Issue

Is the business “df” (EIN: sadf), a general business located in asdf, eligible for the Employee Retention Credit for Q2 2020 because its operations were fully or partially suspended as a direct result of government COVID-19 orders?

2. Facts

The business “df” experienced significant operational disruptions during Q2 2020 on account of multiple government orders issued at the federal, state, county, and local levels. The following orders were in effect during this period and directly or indirectly limited normal business operations:

- **Order Name:** National Emergency Concerning COVID-19
 - **Order Number:** N/A
 - **Date Enacted:** 03/13/2020
 - **Date Rescinded:** Still in effect
 - **Order Summary:** This proclamation declared a national emergency that activated federal emergency powers and established the framework for subsequent regulatory actions. It did not impose direct operational restrictions but provided the legal basis for later orders that affected business operations.
 - **Impact on Quarter:** Although not directly mandating business closures, it set the stage for more restrictive measures that ultimately led to significant operational limitations during Q2 2020.
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- **Order Name:** California COVID-19 State of Emergency
 - **Order Number:** N/A (Governor’s Proclamation)
 - **Date Enacted:** 03/04/2020
 - **Date Rescinded:** Still in effect
 - **Order Summary:** The Governor’s declaration empowered state agencies to institute various public health measures, including mandatory closures and

limitations on non-essential businesses. This order justified extensive regulatory actions throughout the state.

- **Impact on Quarter:** It underlay the legal authority for measures that forced the suspension or severe curtailment of “df” during Q2 2020.
- **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- **Date Rescinded:** 06/15/2021
- **Order Summary:** This order required all residents to stay at home except for essential activities. It mandated the closure or significant reduction of operations for non-essential businesses across California.
- **Impact on Quarter:** The order directly required “df” to suspend regular in-person operations during Q2 2020, leading to a partial suspension of business activities and reduced revenue.
- **Order Name:** Stage 2 Reopening Order
- **Order Number:** N/A
- **Date Enacted:** 05/07/2020
- **Date Rescinded:** 06/15/2021
- **Order Summary:** The order allowed a cautious phased reopening with strict limitations, including social distancing, curbside pickup, and reduced in-person capacities. It was intended to balance public health risks with the need to restart economic activity.
- **Impact on Quarter:** Although it permitted a limited resumption of operations, “df” continued to face capacity limits and operational constraints during Q2 2020.
- **Order Name:** Ventura County Stay Well at Home Order
- **Order Number:** N/A
- **Date Enacted:** 03/20/2020
- **Date Rescinded:** 06/11/2021
- **Order Summary:** This county order required all residents to remain at home except for essential activities and directed the closure of non-essential businesses. It reinforced state-level restrictions to safeguard public health.
- **Impact on Quarter:** The order enforced mandatory restrictions that resulted in a full or partial suspension of “df’s” business operations during Q2 2020.
- **Order Name:** Camarillo Local Emergency Proclamation
- **Order Number:** EOC Director Order No. 20-1
- **Date Enacted:** 03/13/2020

- **Date Rescinded:** Still in effect
 - **Order Summary:** This proclamation initiated local emergency protocols, including the cancellation of public events and potential closures of non-essential city facilities. It supplemented higher-level orders by adding local operational guidance.
 - **Impact on Quarter:** It indirectly affected “df” by reinforcing safety and operational restrictions that reduced customer traffic and altered regular business practices during Q2 2020.
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- **Order Name:** Camarillo Eviction Moratorium Order
 - **Order Number:** EOC Director Order No. 20-2 (amended on 04/23/2020)
 - **Date Enacted:** 03/18/2020 (amended 04/23/2020)
 - **Date Rescinded:** Still in effect during Q2 2020
 - **Order Summary:** This order provided temporary protection from evictions for commercial (and residential) tenants, thereby offering relief to businesses facing financial hardship due to COVID-19 disruptions.
 - **Impact on Quarter:** It offered “df” critical relief from immediate lease termination pressures, indirectly supporting the business while operating under significant restrictions during Q2 2020.

3. Law

The Employee Retention Credit (ERC) is available to businesses whose operations were fully or partially suspended during a calendar quarter as a result of government orders related to COVID-19. Under IRS Notice 2021-20 and other related guidance, a “partial suspension” can be established if government directives directly limit the safe and normal operation of a business. Eligibility for the ERC is determined on a quarter-by-quarter basis and takes into account the degree and duration of operational restrictions imposed by official orders.

4. Argument

BASED ON THE DOCUMENTED ORDERS:

- “df” was subjected to a series of federal, state, county, and city orders—most notably the Statewide Stay-at-Home Order (Executive Order N-33-20) and the Ventura County Stay Well at Home Order—that mandated a full or partial shutdown of non-essential business operations during Q2 2020.
- The Stage 2 Reopening Order provided a framework for limited operations; however, persistent capacity and social distancing restrictions continued to impede normal business functions.

- Local measures, including the Camarillo Local Emergency Proclamation and the Camarillo Eviction Moratorium Order, further contributed to operational challenges and financial uncertainty by reducing customer traffic and safeguarding business occupancy despite declining revenues.
- In light of these cumulative effects, “df” has established that its regular business operations were significantly and adversely impacted, thereby meeting the criteria for a partial suspension as required for ERC eligibility under the relevant IRS guidance.

5. Conclusion

Based on the reviewed facts, pertinent regulatory orders, and applicable IRS guidance including Notice 2021-20, the business “df” qualifies for the Employee Retention Credit for Q2 2020. The combination of enforced shutdowns, limited reopening measures, and local emergency directives resulted in a partial suspension of normal business operations. Consequently, “df” is eligible to claim the ERC for the affected quarter.

End of Form 886-A