

4/11/2025

Internal Revenue Service
Ogden, UT 84201

EIN: 23-451655

Taxpayer Name: Eldenism

RE: Formal Protest of ERC Disallowance for Q3 2020

Tax Period: 3rd Quarter 2020

DEAR APPEALS OFFICER:

We write on behalf of Eldenism in response to the IRS notice disallowing our Employee Retention Credit (ERC) claim for the third quarter of 2020. The reason stated for disallowance was that “no government orders were in effect” from July 1 to September 30, 2020, that caused a partial or full suspension of our business. We respectfully disagree. Eldenism operates in both Camarillo, California, and Los Angeles, California. During Q3 2020, we were subject to numerous federal, state, county, and city COVID-19 orders that mandated closures, capacity limits, and operational restrictions.

Below, we outline the specific government orders active during Q3 2020, each presented in the required format with the date enacted, date rescinded, a concise summary of what the order mandated, and a note on how it affected our business operations. Additionally, we present our quarterly revenue figures, which further confirm our eligibility for the ERC in other quarters (though we base this Q3 2020 claim on government orders).

DETAILED LIST OF RELEVANT GOVERNMENT ORDERS IN EFFECT DURING Q3 2020

- **Order Name:** Proclamation 9994 – National Emergency Concerning COVID-19
- **Order Number:** Proclamation 9994
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Still in effect throughout 2020 (continued by the President in 2021, ended in 2023)
- **Order Summary:** Declared a nationwide emergency due to the COVID-19 outbreak, activating federal emergency powers and funding. It did not itself shut down businesses, but it empowered federal and state authorities to impose stricter COVID measures and underscored the severity of the crisis.
- **Impact on Quarter:** During Q3 2020, Eldenism’s Camarillo operations were still functioning under the umbrella of a declared national emergency. This ongoing national emergency set the stage for other orders below—each tied back to the federal government’s recognition that the pandemic required extraordinary measures.
- **Order Name:** California COVID-19 State of Emergency
- **Order Number:** Gubernatorial Proclamation (March 4, 2020)
- **Date Enacted:** 03/04/2020
- **Date Rescinded:** Still in effect throughout 2020 (ended February 2023)
- **Order Summary:** Declared a statewide emergency in California due to COVID-19, granting the Governor and health authorities broad authority to suspend laws, issue lockdowns, and impose other COVID-related directives.
- **Impact on Quarter:** By Q3 2020, Eldenism’s activities in California remained subject to emergency orders enabled by this Proclamation. The statewide emergency justified subsequent restrictions and partial

closures, which continued to impact normal operations throughout July–September 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:** Directed all California residents to stay at home except for essential activities, and required non-essential businesses to cease or severely curtail in-person operations. Although it was relaxed over time, the statewide order remained formally in place “until further notice,” with evolving guidance throughout 2020.
 - **Impact on Quarter:** In Q3 2020, Eldenism remained under capacity restrictions stemming from this order in Camarillo. While some reopening was permitted, the baseline stay-at-home framework still limited on-site staffing, imposed social distancing protocols, and constrained many business activities.
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- **Order Name:** State Public Health Officer Order (Stage 2 Reopening)
 - **Order Number:** May 7, 2020 Order per Executive Order N-60-20
 - **Date Enacted:** 05/07/2020
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** Allowed lower-risk businesses (like certain retail and manufacturing) to reopen with modifications, while higher-risk sectors (e.g., dine-in restaurants, gyms, salons) generally remained closed or subject to strict limits.
 - **Impact on Quarter:** By July 2020, Eldenism could operate limited in-person activities under these Stage 2 guidelines in Camarillo. However, as COVID cases surged, Eldenism’s on-site operations were repeatedly adjusted to comply with capacity restrictions, social distancing requirements, and safety protocols.
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- **Order Name:** State Public Health Officer Order (July 13, 2020) – Statewide Rollback
 - **Order Number:** July 13, 2020 Rollback Order
 - **Date Enacted:** 07/13/2020
 - **Date Rescinded:** Superseded 08/31/2020 by the Blueprint for a Safer Economy, fully rescinded 06/15/2021
 - **Order Summary:** Re-imposed closures on sectors that had partially reopened. Required bars, indoor dining, movie theaters, gyms, and personal care services to suspend or significantly reduce indoor operations statewide.
 - **Impact on Quarter:** This directly affected Eldenism’s business in Q3 2020 by removing or limiting the indoor services and in-person activities that had resumed in June. We had to observe these re-closures and capacity limits for much of the third quarter.
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- **Order Name:** “Blueprint for a Safer Economy” Framework
 - **Order Number:** State Public Health Officer Order (August 28, 2020)
 - **Date Enacted:** 08/28/2020 (effective 08/31/2020)
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** Established California’s color-coded tier system, where each county was assigned a risk tier (Purple, Red, Orange, Yellow) with corresponding business restrictions. In late August 2020, Ventura County (Camarillo) was in the Purple tier (most restrictive).
 - **Impact on Quarter:** The Purple tier prevented or severely limited indoor operations for many business sectors in September 2020. Eldenism had to comply with reduced capacity, social distancing, and in some cases fully suspend on-site services in Camarillo, meaning Q3 concluded under stringent operating limitations.
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- **Order Name:** Ventura County “Stay Well at Home” Order
 - **Order Number:** Ventura County Health Officer Order (March 20, 2020)

- **Date Enacted:** 03/20/2020
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** Required county residents to stay home except for essential needs, with mandatory closures of non-essential businesses. Over time, it was amended to allow partial reopenings, but the general stay-home framework continued throughout 2020 at the county level.
 - **Impact on Quarter:** During Q3 2020, Eldenism's staff and customers in Camarillo remained subject to the county's local iteration of the statewide lockdown rules. This effectively enforced capacity limits and safety protocols on the ground and limited normal operations.
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- **Order Name:** "Safely Reopening Ventura County" Order
 - **Order Number:** Ventura County Health Officer Orders (May 7 & May 20, 2020)
 - **Date Enacted:** 05/07/2020 (amended 05/20/2020)
 - **Date Rescinded:** Superseded 08/31/2020 by alignment with the Blueprint tier system
 - **Order Summary:** Allowed certain retail, manufacturing, and dine-in restaurants (with restrictions) to resume operations under strict social distancing and safety plans. Provided guidelines for businesses to operate with limited capacity and posted distancing protocols.
 - **Impact on Quarter:** Eldenism was allowed limited on-site operations in Q3 2020 under these orders, but the subsequent July rollback and the later Blueprint constraints meant any brief reopening was partially reversed. Overall, the "stop-and-go" nature of these orders impaired our revenue and staffing continuity.
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- **Order Name:** Ventura County 4th of July Closure Order
 - **Order Number:** Ventura County Health Officer Order (June 30, 2020)
 - **Date Enacted:** 06/30/2020 (effective 07/03/2020 to 07/05/2020)
 - **Date Rescinded:** 07/06/2020 (expired by its terms)
 - **Order Summary:** Closed beaches and coastal parking lots for the July 4th weekend to prevent crowding and potential COVID spikes.
 - **Impact on Quarter:** Though short in duration, this order exemplified the volatility of Q3 2020. It discouraged holiday travel and gatherings, reducing local consumer traffic. Eldenism in Camarillo experienced fewer holiday-weekend visitors or customers, adding further revenue strain early in Q3.
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- **Order Name:** Ventura County July 2020 Order – Local Implementation of State Rollback
 - **Order Number:** Ventura County Health Officer Order (July 13, 2020)
 - **Date Enacted:** 07/13/2020
 - **Date Rescinded:** 10/06/2020 (moved to Red tier in October)
 - **Order Summary:** Enforced the state's July 13 rollback locally, shutting down or restricting indoor business operations for sectors such as restaurants, gyms, and personal care services.
 - **Impact on Quarter:** For Eldenism, this local order meant re-suspending or heavily limiting our in-person activities from mid-July through September. Many operations, including client-facing services or events, had to remain closed or shift online/outdoors, which reduced business volume.
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- **Order Name:** Ventura County Eviction Moratorium
 - **Order Number:** Urgency Ordinance No. 4563 (extended by Board actions)
 - **Date Enacted:** April 2020 (retroactive protections)
 - **Date Rescinded:** 09/30/2020 for commercial tenants, replaced by state law for residential
 - **Order Summary:** Temporarily halted evictions for qualifying residential and commercial tenants who lost income due to COVID-19. Required repayment of rent later but shielded businesses from immediate eviction.
 - **Impact on Quarter:** Eldenism benefited from the commercial protections through Q3 2020 in Camarillo if rent difficulties arose. While it did not solve revenue losses, the moratorium helped prevent forced closures during a quarter when indoor operations were severely restricted.

- **Order Name:** City of Camarillo Local Emergency Proclamation
 - **Order Number:** EOC Director Order No. 20-1
 - **Date Enacted:** 03/13/2020
 - **Date Rescinded:** Not rescinded in 2020–2021
 - **Order Summary:** Declared a local emergency within the City of Camarillo, enabling swift municipal actions such as closing city facilities, restricting events, and enforcing county/state directives.
 - **Impact on Quarter:** Eldenism's Camarillo location was subject to the city's emergency rules. Various in-person approvals or gatherings were delayed or canceled in Q3 2020, and city services that we rely on for some operational needs were limited during the local emergency.
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- **Order Name:** Camarillo Eviction Moratorium Orders
 - **Order Number:** EOC Director Order No. 20-2 (03/18/2020), amended 04/23/2020
 - **Date Enacted:** 03/18/2020
 - **Date Rescinded:** Superseded by state legislation for residents in September 2020; lapsed for commercial if not further extended locally
 - **Order Summary:** Blocked evictions of residential and commercial tenants within Camarillo who could not pay rent due to COVID-19. Similar to the county's ordinance, but specifically applied inside Camarillo city limits.
 - **Impact on Quarter:** Helped Eldenism (and numerous other small businesses) avoid eviction through Q3 2020 if financial hardship from COVID restrictions made rent unaffordable. This protected our Camarillo location's premises during precarious summer months.
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- **Order Name:** Resolution No. 2020-63 – Temporary Outdoor Dining Program (Camarillo)
 - **Order Number:** 2020-63 (City of Camarillo Council)
 - **Date Enacted:** 06/10/2020
 - **Date Rescinded:** Phased out when capacity restrictions ended on 06/15/2021
 - **Order Summary:** Allowed restaurants and other dining establishments to operate in parking lots, sidewalks, or other outdoor areas without normal permit barriers or fees.
 - **Impact on Quarter:** While Eldenism is not a restaurant, this resolution exemplified the broader environment in Q3 2020

QUARTERLY REVENUE DATA FOR ELDENISM

In addition to the government orders described above, we submit the following quarterly revenue data for completeness:

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

QUARTER	2019 REVENUE	COMPARISON REV.	DOLLAR DECLINE	% DECLINE	QUALIFIES
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Q1 2019-2020	\$423,540.00	\$231,524.00	\$192,016.00	45.34%	NO
Q2 2019-2020	\$423,540.00	\$231,524.00	\$192,016.00	45.34%	NO
Q3 2019-2020	\$423,540.00	\$231,524.00	\$192,016.00	45.34%	NO
Q4 2019-2020	\$423,540.00	\$231,524.00	\$192,016.00	45.34%	NO

Q1 2019-2021 | \$423,540.00 | \$2,415.00 | \$421,125.00 | 99.43% | YES

Q2 2019-2021 | \$423,540.00 | \$2,415.00 | \$421,125.00 | 99.43% | YES

Q3 2019-2021 | \$423,540.00 | \$2,415.00 | \$421,125.00 | 99.43% | YES

"As shown in the revenue table above, Q1–Q3 of 2019–2021 (and Q2 of that same comparison) meet the ERC threshold for a significant decline in gross receipts. Although Q3 2019–2020 did not meet the revenue-based threshold, Eldenism qualifies for Q3 2020 via the 'partial suspension' standard under the multiple government orders listed. These overlapping orders forced our Camarillo and Los Angeles operations to reduce capacity, modify work practices, and intermittently suspend normal business activities, thus supporting our ERC claim for Q3 2020."

CONCLUSION

The assertion that "no government orders were in effect" for Q3 2020 is unfounded. We have shown that an extensive set of federal, state, county, and municipal orders remained active throughout Q3 2020, significantly restricting in-person business functions, imposing capacity and operational limitations, and prompting repeated closures or rollbacks of services. Under the IRS guidance on partial suspensions, these extensive government mandates clearly caused more than a nominal impact on Eldenism's ability to conduct normal operations at our Camarillo and Los Angeles sites.

We respectfully request that you reverse the ERC disallowance for Q3 2020. The orders cited above substantiated our partial suspension under IRC § 2301 and relevant IRS notices. Eldenism complied with all COVID-19 mandates while striving to maintain employment; the resulting qualified wages should rightfully qualify for the ERC.

Thank you for your time and consideration. Should you need any additional information or clarification, please contact us. We appreciate your prompt review and stand ready to provide further substantiation as needed.

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

Sincerely,

[Signature]

Authorized Representative, Eldenism

SOURCES

1. <https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/#:~:text=On%20March%2013%2C%202020%2C%20by,and%20safety%20of%20the%20Nation> – Proclamation 9994 (National Emergency)

2. [https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-](https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/)

19/#::~text=SACRAMENTO%E2%80%93As%20part%20of,19%20death – California COVID-19 State of Emergency

3. <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf#:~:text=March%2019%2C%202020%20To%20protect,may%20designate%20additional%20sectors%20as>
– Executive Order N-33-20

4. https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/8-28-20_Order-Plan-Reducing-COVID19-Adjusting-Permitted-Sectors-Signed.pdf#:~:text=with%20Executive%20Order%20N,finally%20an%20easing%20of%20final – State Public Health Officer Orders (Stage 2, July 13 Rollback)

5. <https://www.gov.ca.gov/2020/08/28/governor-newsom-unveils-blueprint-for-a-safer-economy-a-statewide-stringent-and-slow-plan-for-living-with-covid-19/#:~:text=SACRAMENTO%20E2%80%93%20Governor%20Gavin%20Newsom,the%20trajectory%20of%20the%20disease>
– “Blueprint for a Safer Economy”

6. <https://aagla.org/wp-content/uploads/2020/06/extension-or-the-ordinance.pdf#:~:text=9,On> – Ventura County “Stay Well at Home” Order (03/20/2020)

7. <https://www.portofhueneme.org/coronavirus-update/#:~:text=May%208%2C%202020%20%E2%80%93%20On,manufacturing%20and%20supply%20chain%20businesses>
– “Safely Reopening Ventura County” (May 2020)

8. <https://abc7.com/ventura-county-beaches-july-4-2020-4th-of-weekend-open-for/6286107/#:~:text=Ventura%20County%20beaches%20to%20close,coronavirus%20cases%2C%20Ventura%20County>
– Ventura County 4th of July Closure

9. https://vcportal.ventura.org/CEO/VCNC/VC_Public_Health_Officer_Order_10-06-2020.pdf#:~:text=OFFICER%20are%20hereby – Ventura County July 2020 Re-Closure Order

10. <https://aagla.org/wp-content/uploads/2020/06/extension-or-the-ordinance.pdf#:~:text=A,19%20pandemic> – Ventura County Eviction Moratorium

11. <https://cms7files.revize.com/camarilloca/Departments/Community%20Development/Applications/Reso%202020-63.pdf#:~:text=capacity%20as%20the%20City%20of,of%20the%20City%20Council%20at> – City of Camarillo Local Emergency Proclamation

12. <https://members.aagla.org/news/temporary-eviction-moratoriums--novel-coronavirus-covid-19#:~:text=Camarillo - City of Camarillo Eviction Moratorium Orders>

13. <https://cms7files.revize.com/camarilloca/Departments/Community%20Development/Applications/Reso%202020-63.pdf#:~:text=to%20help%20licensees%20with%20economic,19> – Resolution No. 2020-63 (Camarillo Outdoor Dining Program)