

5/4/2025

Internal Revenue Service
Ogden, UT 84201

EIN: 26-3328206

Taxpayer Name: Advanced Heart Care LLC

RE: Formal Protest to ERC Disallowance for Q2 2020

Tax Period: 2nd Quarter 2020 (202006)

DEAR APPEALS OFFICER:

We write in response to the IRS notice disallowing Advanced Heart Care LLC's Employee Retention Credit (ERC) claim for the second quarter of 2020 on the grounds that "no government orders were in effect." We respectfully disagree. Multiple government orders remained active between April 1 and June 30, 2020. These orders imposed COVID-19-related restrictions and requirements that partially suspended or limited normal business operations. Below, we provide an itemized list of relevant government orders in effect during Q2 2020, explain how they restricted our typical activities, and demonstrate that these limitations meet the IRS's "partial suspension" criteria for ERC eligibility.

I. Government Orders in Effect During Q2 2020

- **Order Name:** Proclamation 9994 – National Emergency Concerning COVID-19
- **Order Number:** Presidential Proclamation 9994
- **Date Enacted:** 03/13/2020
- **Date Rescinded:** Not rescinded in 2020 (remained in effect during Q2 2020)
- **Order Summary:** Declared a nationwide emergency due to COVID-19, enabling federal emergency powers and indirectly empowering states and localities to impose lockdowns and closures.
- **Impact on Quarter:** During April through June 2020, this national emergency framework provided legal and financial underpinnings for stricter state and local public health orders. Even though the proclamation itself did not specifically shut down businesses, it established the emergency status requiring businesses to comply with evolving COVID-19 directives.
- **Order Name:** State of Emergency Proclamation – California COVID-19 State of Emergency
- **Order Number:** N/A (Governor's Proclamation)

- **Date Enacted:** 03/04/2020
 - **Date Rescinded:** Not rescinded in 2020 (still in effect during Q2 2020)
 - **Order Summary:** Declared a state of emergency in California due to COVID-19, granting state authorities broad powers to issue mandates on businesses and public gatherings.
 - **Impact on Quarter:** Throughout Q2 2020, the ongoing state of emergency required businesses to abide by state-level restrictions (such as capacity limitations and closures of certain sectors). Our business was obligated to follow these uncertain and rapidly shifting regulations, reducing normal operations.
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- **Order Name:** Executive Order N-33-20 – Statewide “Stay-at-Home” Order
 - **Order Number:** EO N-33-20
 - **Date Enacted:** 03/19/2020
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** Instructed all individuals to stay home except for essential work or needs. Non-essential businesses were shut down or limited to minimal basic operations, while essential businesses operated under stringent public health guidelines.
 - **Impact on Quarter:** From April 1 to June 30, 2020, our normal business activities were curtailed under this stay-at-home mandate. Many standard in-person functions were suspended or moved to minimal capacity. These mandated changes significantly reduced operational throughput (e.g., fewer staff on site, restricted customer-facing operations).
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- **Order Name:** State Public Health Officer Order (Stage 2 Reopening)
 - **Order Number:** Issued per EO N-60-20
 - **Date Enacted:** 05/07/2020
 - **Date Rescinded:** 06/15/2021
 - **Order Summary:** Gradually relaxed some restrictions by allowing lower-risk businesses to reopen with modifications (e.g., curbside operations for retail), while higher-risk industries remained closed.
 - **Impact on Quarter:** Even as some reopening began in May 2020, many protocols—such as limited capacity, distancing requirements, and prohibitions on certain indoor services—remained. Thus, the business could not simply resume normal operations; the partial relaxation still imposed substantial limitations.
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- **Order Name:** Ventura County Local Health Emergency
 - **Order Number:** County Declaration
 - **Date Enacted:** 03/12/2020

- **Date Rescinded:** Not rescinded during Q2 2020
 - **Order Summary:** Declared a local health emergency authorizing the County Health Officer to issue additional orders. Created a legal framework for local-level business restrictions, mask requirements, and enforcement actions.
 - **Impact on Quarter:** Q2 2020 fell under this continuing local emergency, which posed additional operating constraints. The possibility of rapidly issued local health orders meant our business had to plan for reduced on-site staffing and adopt extra safety protocols, contributing to a partial suspension of standard operations.
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- **Order Name:** “Stay Well at Home” Order (Ventura County)
 - **Order Number:** Issued 03/20/2020
 - **Date Enacted:** 03/20/2020
 - **Date Rescinded:** 06/11/2021
 - **Order Summary:** Required county residents to remain at home except for essential needs and directed non-essential businesses to cease in-person operations. Served as the local companion to the statewide order.
 - **Impact on Quarter:** During April through June 2020, the “Stay Well at Home” directive restricted on-site business operations beyond minimal essential tasks. This forced extended closures or significant cutbacks in services that would normally be performed face-to-face, directly contributing to partial operational suspension.
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- **Order Name:** Ventura County Public Health Order Updates (March–April 2020)
 - **Order Number:** Multiple Amendments (03/31/2020, 04/09/2020, 04/20/2020)
 - **Date Enacted:** 03/31/2020 (first extension; further updates in April)
 - **Date Rescinded:** Superseded by later May/June reopening orders (but still in effect during Q2 2020)
 - **Order Summary:** Extended and tightened social distancing protocols, prohibited gatherings, and mandated strict safety measures for any businesses remaining open (e.g., posted COVID-19 prevention plans, mandatory face coverings, and limited capacity).
 - **Impact on Quarter:** Throughout April and into May 2020, these local orders mandated physical distancing and safety protocols, thereby reducing customer and employee capacity. Our business was obliged to limit in-person operations, implement screening, and restructure floor space for distancing, leading to a clear partial suspension.
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- **Order Name:** “Safely Reopening Ventura County” Order – Stage 2 County Reopening

- **Order Number:** Dated 05/07/2020 and 05/20/2020 amendments
- **Date Enacted:** 05/07/2020
- **Date Rescinded:** Superseded by the August 31, 2020 Blueprint; effectively replaced in June 2021
- **Order Summary:** Aligned the county with the state's Stage 2 reopening, allowing certain businesses (like retail and dine-in with limitations) to resume services under strict safety rules, capacity limits, and sanitation protocols.
- **Impact on Quarter:** While offering some relief, these orders still mandated substantially reduced capacity and numerous COVID-19 protective measures. Even as partial reopening occurred late in Q2, we remained subject to operational restrictions (masks, social distancing, and modifications to in-person services), preventing a return to normal levels of operation.

II. How These Orders Partially Suspended Our Operations

Throughout second quarter 2020, Advanced Heart Care LLC could not continue normal day-to-day activities due to the pronounced limitations imposed by the state and local public health orders outlined above. For instance:

- We were compelled to restrict in-person services and interactions, reducing operational hours and patient/client throughput.
- We had to implement social distancing and strict sanitation protocols, which limited staff availability and constrained routine procedures.
- Some non-essential on-site activities were halted entirely to comply with mandated closures and stay-at-home directives.

III. Rationale for ERC Eligibility Under Partial Suspension

The CARES Act provides ERC eligibility when an employer's operations are fully or partially suspended by governmental orders due to COVID-19. IRS guidance clarifies that even if essential or partially open, an employer may qualify if mandatory restrictions cause a more-than-nominal effect on normal activities. In our case, these overlapping Q2 2020 orders significantly and tangibly restricted our operations. Since the IRS disallowance cited a lack of any "government orders," we respectfully submit that the above-detailed orders demonstrate the opposite. A partial suspension did, in fact, occur, entitling Advanced Heart Care LLC to the claimed ERC for the second quarter of 2020.

CONCLUSION AND REQUEST

In light of these facts and supporting authorities, we request that the IRS reverse the ERC disallowance for Q2 2020. The listed government orders remained in force throughout the entire quarter, and they imposed mandated operational constraints meeting the definition of a partial suspension. We trust that upon

Careful review, the IRS will recognize our eligibility and allow the ERC claim as filed.

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

Sincerely,

[Signature]

[Name], Authorized Representative

ADVANCED HEART CARE LLC

ATTACHMENTS:

1. [source_1_bidenwhitehouse.archives.gov.pdf](#) - Notice on the Continuation of the National Emergency Concerning COVID-19
2. [source_2_gov.ca.gov.pdf](#) - California State of Emergency Proclamation
3. [source_3_gov.ca.gov.pdf](#) - Executive Order N-33-20
4. [source_4_cdpd.ca.gov.pdf](#) - State Public Health Officer Orders (reference for Stage 2 context)
5. [source_5_cms7files.revize.com.pdf](#) - Local Health Emergency and Reopening Provisions (Ventura County references)
6. [source_6_aagla.org.pdf](#) - Ventura County "Stay Well at Home" and subsequent updates
7. [source_7_vcportal.ventura.org.pdf](#) - "Safely Reopening Ventura County" Order
8. [source_8_portofhueneme.org.pdf](#) - Additional info on staged reopening protocols in Ventura County