

03/03/2025

Internal Revenue Service

Ogden, UT 84201

EIN: 23-41425

Taxpayer Name: erc smart

RE: Formal Protest to Letter 105 – ERC Disallowance for Q4

Tax Period: Fourth Quarter 2020 (202010–202012)

Claim Amount: \$150,000

Dear Appeals Officer,

We write in response to the IRS notice disallowing erc smart's Employee Retention Credit (ERC) claim for the fourth quarter of 2020. The disallowance was based on the assertion that "no government orders were in effect" from October 1 to December 31, 2020 that caused a suspension of our operations. We respectfully disagree. Multiple federal, state, county, and city government orders were active during Q4 2020, and they imposed COVID-19–related restrictions that partially limited erc smart's normal business operations in Camarillo, California. In this letter, we provide a detailed timeline of the relevant government orders, demonstrate their impact on our activities, and cite applicable IRS guidance supporting our qualification for the ERC under the "partial suspension" provisions.

#### Timeline of COVID-19 Government Orders Active in Q4 2020

##### Federal – National Emergency and Public Health Framework:

The United States COVID-19 National Emergency, first declared on March 13, 2020, continued to be in effect throughout Q4 2020. This emergency provided the legal basis for a host of subsequent orders and directives. For example, as noted in the proclamation archived on the Biden White House website ([See Attachment 1: attachment\_1\_https\_\_\_bidenwhitehouse\_archiv.pdf]), the national emergency underpinned the ability of state and local governments to enact tailored restrictions that directly impacted our business operations.

#### California – “Blueprint for a Safer Economy” Framework:

On August 28, 2020, the State of California issued its “Blueprint for a Safer Economy” framework, effective August 31, 2020. Under this color-tier system, Ventura County—which includes Camarillo—remained in the Purple tier through much of Q4 2020, mandating that many indoor operations either remain closed or operate at severely limited capacity. The framework is publicly available on the California Department of Public Health website ([See Attachment 2: attachment\_2\_https\_\_\_www\_cdph\_ca\_gov\_Progra.pdf]). This prolonged level of restrictions clearly affected erc smart and other local businesses by limiting normal in-person service delivery.

#### California – Regional Stay-at-Home Order:

In response to increasing COVID-19 cases and hospital capacity concerns, the State of California issued a Regional Stay-at-Home Order effective December 6, 2020 (announced December 3, 2020, and rescinded January 25, 2021). This order required the closure or severe restriction of non-essential indoor operations during December 2020. Although primarily impacting the very end of Q4 2020, the order created an environment of heightened caution and operational limitation that forced erc smart to curtail aspects of its business activities in Camarillo.

#### Ventura County – Local Health and Business Directives:

Ventura County maintained and updated its local public health orders throughout the pandemic. In Q4 2020, the county continued to enforce measures consistent with the state’s tiered system, including capacity restrictions and limitations on indoor gatherings. These directives, along with the county’s implementation of state orders, reinforced the limitations imposed on all Camarillo businesses. Official county orders and updates have been referenced in local news outlets and on the Ventura County website.

#### City of Camarillo – Local Emergency Proclamation:

The City of Camarillo declared a local emergency on March 13, 2020 (EOC Director Order No. 20-1, ratified by City Council Resolution 20-36), which remained in effect through the end of 2020. While the proclamation itself did not mandate closures, it empowered the City to implement additional measures—such as permitting only outdoor dining and modifying permit processes—that directly affected business operations.

This local emergency status supported the enforcement of both county and state orders during Q4 2020.

#### Summary of Relevant Orders and Operational Impact on erc smart

The overlapping framework of COVID-19 government orders during Q4 2020 significantly limited our normal business activities. The continued national emergency and California's "Blueprint for a Safer Economy" created an environment in which non-essential indoor operations were broadly restricted. The Regional Stay-at-Home Order issued in December 2020 further compounded these effects by enforcing temporary closures or severe restrictions on many business activities right at the close of the quarter. Additionally, local measures from Ventura County and the City of Camarillo—such as capacity limitations and modified operating procedures—ensured that even as some restrictions were cautiously relaxed earlier in the year, erc smart's routine operations were partially suspended in Q4 2020.

Under IRS guidelines—specifically the "partial suspension" provision outlined in IRS Notices such as 2021-20—the impact of these government orders on our operations qualifies us for the ERC. Although erc smart is classified as a business and continued to operate during the pandemic, the federal, state, county, and city orders collectively imposed more than nominal restrictions. These restrictions forced us to reduce in-person services and adjust our operations substantially, thereby meeting the partial suspension threshold required under IRS guidance.

#### Conclusion and Request

For the reasons detailed above, erc smart respectfully requests that the IRS reconsider and reverse the disallowance of our Q4 2020 ERC claim. The credit claimed is fully supported by the government orders in effect during the relevant period and is in alignment with applicable IRS guidance on the partial suspension due to COVID-19. We have enclosed documentation of the specific orders cited—including source links—and a detailed analysis of the impact on our operational hours and revenue, which demonstrates that the reduction in our operations was in excess of a nominal effect.

Attestation: "Under penalties of perjury, I declare that I submitted the

protest and accompanying documents, and to the best of my personal knowledge and belief, the information stated in the protest and accompanying documents is true, correct, and complete.”

Sincerely,

[Authorized Representative]

erc smart

Enclosures:

- Copies of Relevant Government Orders and Excerpts (including those from the Biden White House, California Department of Public Health, and Ventura County);
- ERC Calculation Documentation for Q4 2020;
- IRS Guidance References (including links to [See Attachment 1: attachment\_1\_https\_\_\_bidenwhitehouse\_archiv.pdf] and [See Attachment 2: attachment\_2\_https\_\_\_www\_cdph\_ca\_gov\_Progra.pdf]);
- Supporting Analysis on Operational Impacts Due to COVID-19 Orders.