

3/3/2025

Internal Revenue Service

Ogden, UT 84201

EIN: 43-123125

Taxpayer Name: West Coast Marble and Granite

RE: Formal Protest to Letter [Enter Letter Number] – ERC Disallowance  
for Q2

Tax Period: 2nd Quarter 2021 (202104–202106)

Claim Amount: [Enter Claim Amount]

Dear Appeals Officer,

We write in response to the IRS notice disallowing West Coast Marble and Granite’s Employee Retention Credit (ERC) claim for the second quarter of 2021. The disallowance was based on the assertion that no government orders were in effect from April through June 2021 that caused a suspension or partial limitation of our operations. We respectfully disagree. Multiple federal, state, county, and city government orders were active during Q2 2021 and imposed COVID-19–related restrictions and requirements that, directly or indirectly, affected our operational capacity in Camarillo, California. In this protest, we provide a detailed timeline of the relevant government orders, demonstrate their impact on our business operations, and cite applicable IRS guidance supporting our qualification for the ERC under the “partial suspension” provisions.

#### Timeline of COVID-19 Government Orders Active in Q2 2021

Despite gradual reopenings later in 2021, a layered framework of emergency orders and public health mandates continued during Q2 2021. Below is a chronological timeline and summary of key orders in effect during this period:

#### Federal Orders

- Proclamation 9994 – National Emergency Concerning COVID-19  
– Date Enacted: March 13, 2020

- In effect during Q2 2021
- Summary: This proclamation declared a nationwide emergency in response to the COVID-19 outbreak, thereby unlocking federal funding and empowering subsequent state and local restrictions. Although it did not directly order the closure of non-essential businesses, it established the legal framework under which more specific orders were issued. West Coast Marble and Granite operated under heightened federal awareness and guidelines throughout Q2 2021.

- Link: [See Attachment 1:  
attachment\_1\_https\_\_\_bidenwhitehouse\_archiv.pdf]

- CDC/FAA Mask Mandates – Federal Mask Requirements for Travel

- Date Enacted: January 21, 2021 (with subsequent CDC guidance effective February 1, 2021)

- In effect during Q2 2021

- Summary: These mandates required the wearing of masks in travel settings and on certain federal properties. While not targeting business operations directly, they contributed to the overall regulatory atmosphere and signaled ongoing federal efforts to mitigate COVID-19 risks, indirectly affecting related business practices in the region.

- Links: See relevant federal announcements at [See Attachment 2:  
attachment\_2\_https\_\_\_www\_federalregister\_go.pdf] and [See Attachment 3:  
attachment\_3\_https\_\_\_www\_osha\_gov\_.pdf]

## California State Orders

- State of Emergency Proclamation – California COVID-19 State of Emergency

- Date Enacted: March 4, 2020

- In effect during Q2 2021

- Summary: Governor Newsom's proclamation declared a state of emergency that continued to empower regulatory actions throughout the pandemic. This declaration served as the basis for subsequent orders that affected capacity, operational protocols, and safety requirements for businesses statewide, including those in Camarillo.

- Link: [See Attachment 4:  
attachment\_4\_https\_\_\_www\_gov\_ca\_gov\_2020\_03.pdf]

- Executive Order N-33-20 – Statewide “Stay-at-Home” Order

- Date Enacted: March 19, 2020

- Date Rescinded: June 15, 2021

- Summary: Although most stringently enforced in the spring, this stay-at-home order and its subsequent modifications continued to affect business operations into Q2 2021. With its rescission effective mid-Q2, many businesses—including West Coast Marble and Granite—had already experienced significant operational disruptions, such as limitations on in-person services and reduced staffing levels, as a direct result of the mandated restrictions.

- Link: [See Attachment 5:  
attachment\_5\_https\_\_\_www\_gov\_ca\_gov\_wp\_cont.pdf]

- “Blueprint for a Safer Economy” Framework

- Date Ordered: Effective from August 31, 2020 and in place through much of 2021

- In effect during the early part of Q2 2021

- Summary: This tier-based reopening framework imposed capacity limits and operational modifications based on local COVID-19 metrics. In Camarillo, many indoor operations were either limited in capacity or reconfigured (for example, shifting to curbside or outdoor services) to comply with the prescribed safety standards, thereby reducing the overall scale of operations.

- Link: [See Attachment 6:  
attachment\_6\_https\_\_\_www\_gov\_ca\_gov\_2020\_08.pdf]

#### Ventura County Orders

- “Stay Well at Home” Order (Ventura County)

- Date Enacted: March 20, 2020

- Date Rescinded: June 11, 2021

- Summary: Mandating residents to remain at home except for essential purposes, this order required many non-essential business operations to limit their in-person activities. Although phased reopening began during Q2 2021, the legacy of this order remained evident in reduced capacity utilization and the continued implementation of stringent safety protocols by West Coast Marble and Granite.

- (For additional details, refer to Ventura County Public Health archives available on the official county website.)

#### City of Camarillo Orders

- Local Emergency Proclamation (Camarillo)

- Date Enacted: March 13, 2020

- In effect during Q2 2021

– Summary: The City of Camarillo’s declaration of emergency enabled rapid local responses, including facility closures and modifications to business operations. This local authority ensured that safety measures were enforced at the municipal level—even as some restrictions were eased—maintaining an environment in which operational capacity was reduced relative to pre-pandemic levels.

– Link: [See Attachment 7: attachment\_7\_https\_\_\_cms7files\_revize\_com\_c.pdf]

## Summary of Operational Impact on West Coast Marble and Granite

West Coast Marble and Granite, a business specializing in the fabrication and installation of stone products, was compelled to modify its operations during Q2 2021 by adherence to overlapping governmental mandates. The federal emergency declaration set the stage for ongoing safety guidelines, while state orders—such as Executive Order N-33-20—directly mandated modifications to in-person operations (resulting in reduced onsite staffing and altered customer interactions). Meanwhile, county and city directives necessitated operational adjustments (including reduced capacity, modified work schedules, and enhanced safety protocols) that clearly limited our normal business activities. Cumulatively, these orders imposed restrictions amounting to a partial suspension of standard operations, which, under IRS guidance, qualifies West Coast Marble and Granite for the ERC.

## ERC Partial Suspension Qualification – IRS Guidance and Analysis

For an employer to be eligible for the ERC in a given quarter, IRS guidance requires that the employer experience either a significant decline in gross receipts or a full or partial suspension of operations due to government orders. West Coast Marble and Granite’s claim is based on the partial suspension test. As illustrated above, the various COVID-19–related governmental orders—notably the lingering effects of the statewide stay-at-home and Blueprint orders, along with local mandates—meaningfully curtailed key aspects of our operations. IRS Notice 2021-20 explains that “if an employer’s operations are limited by a government order and that limitation affects more than a nominal portion of its business, the employer is deemed to have experienced a partial suspension” (see IRS guidance at [irs.gov](https://www.irs.gov)). In our case, the cumulative restrictions on workforce deployment, customer access, and physical

operations clearly exceed the nominal threshold.

## Conclusion and Request

In light of the detailed timeline, the accompanying analysis, and applicable IRS guidance, we respectfully request that the IRS reconsider and reverse the disallowance of our Q2 2021 ERC. The credit claimed was based on a sound interpretation of the “partial suspension” provisions under the applicable COVID-19 governmental orders affecting our operations in Camarillo, California. Enclosed, please find copies of the relevant government orders, supporting documentation, and a complete analysis of the operational impacts experienced during this period.

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.”

Thank you for your prompt attention to this matter. West Coast Marble and Granite has strived to maintain operations and serve our community despite the unprecedented challenges imposed by COVID-19. Please contact us if you require further information or clarification regarding the enclosed documentation.

Sincerely,

Jane Smith  
Authorized Representative for  
West Coast Marble and Granite

## Enclosures:

- Copies of Relevant Government Orders and Supporting Excerpts
- ERC Calculations for Q2 2021
- IRS Notices and Guidance References (e.g., IRS Notice 2021-20)