

3/3/2025

Internal Revenue Service

Ogden, UT 84201

EIN: 43-123152

Taxpayer Name: West Coast Marble and Granite

RE: Formal Protest to Letter 105 - ERC Disallowance for Q3

Tax Period: 3rd Quarter 2020 (202007–202009)

Claim Amount: [Insert 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 third quarter of 2020. The disallowance was based on the assertion that "no government orders were in effect" during Q3 2020 that caused a suspension of our normal business operations. We respectfully disagree. Multiple federal, state, county, and city government orders were actively in effect during Q3 2020 in Camarillo, California, and these COVID-19 related orders imposed restrictions that partially suspended and limited our operations. In this letter, we provide a detailed timeline of the relevant government orders, demonstrate their direct impact on our business activities, and cite applicable IRS guidance (including relevant notices on the partial suspension criteria) to show why West Coast Marble and Granite qualifies for the ERC under the "partial suspension" provisions.

Timeline of COVID-19 Government Orders Active in Q3 2020

Although some restrictions began to ease after the initial lockdown phases, a series of orders at various governmental levels continued to affect business operations in Camarillo throughout the third quarter of 2020. Key orders include:

Federal – National Emergency and Related Proclamations:

- Proclamation 9994 – National Emergency Concerning COVID-19 (Declared March 13, 2020 and active through Q3 2020)

– This proclamation activated federal emergency powers and provided the legal framework supporting subsequent state and local restrictions. More details can be found at the National Emergency notice:

[See Attachment 1:
attachment_1_https___bidenwhitehouse_archiv.pdf]

– Even though this order did not directly mandate business closures, its existence enabled state and local authorities to enforce strict public health orders that impacted our operations.

California State Orders – Statewide Mandates and Reopening Rollbacks:

- Executive Order N-33-20 – Statewide “Stay-at-Home” Order (Enacted March 19, 2020; in effect through Q3 2020)

– This order required Californians to remain at home except for essential activities. While phased reopenings began in May 2020, many restrictions, particularly for “non-essential” businesses, persisted into the summer months, thereby limiting our capacity to perform normal operations. For further reference, please see:

[See Attachment 2:
attachment_2_https___www_gov_ca_gov_2020_03.pdf]

- State Public Health Officer Order – July 13, 2020 Rollback of Reopening

– In response to a surge in COVID-19 cases, the state reinstated significant restrictions on indoor operations on July 13, 2020. This rollback affected various sectors including manufacturing, customer-facing services, and other non-essential business activities that West Coast Marble and Granite relied upon.

- “Blueprint for a Safer Economy” Framework – Color-Tier Reopening System (Announced August 28, 2020, effective August 31, 2020)

– Under this framework, Ventura County (including Camarillo) was placed in the restrictive Purple tier for much of Q3 2020, resulting in limited indoor business activity. More information regarding the framework is available at:

[See Attachment 3:
attachment_3_https___www_gov_ca_gov_2020_08.pdf]

Ventura County Orders – Countywide Directives Impacting Business Operations:

- “Stay Well at Home” Order (Issued March 20, 2020; modifications continued through Q3 2020)

– This order, while later amended, laid the groundwork for capacity restrictions and operational limitations on non-essential businesses in the

county.

- Ventura County July 2020 Order – Local Implementation of State Rollback (Effective July 14, 2020)
 - In direct response to the state’s July 13 rollback, Ventura County enforced closures on indoor operations for several sectors. As a result, many vendors and customer-facing activities, including some components of our supply chain and on-site services, were curtailed.

City of Camarillo Orders – Local Measures Affecting Business Environment:

- Local Emergency Proclamation (EOC Director Order No. 20-1, declared March 13, 2020; remained in effect through Q3 2020)
 - The City of Camarillo's declaration enabled the enforcement of emergency measures, directly impacting public events and altering consumer behavior.
- Camarillo Eviction Moratorium and Temporary Outdoor Dining Program (Resolution No. 2020-63, enacted June 10, 2020)
 - While primarily designed for restaurants, these measures reflect local government efforts to mitigate adverse economic impacts through modified operations. The existence of such orders underscores the persistently restrictive business environment experienced during Q3 2020. More details may be viewed at:

[See Attachment 4:
attachment_4_https___cms7files_revize_com_c.pdf]

Operational Impact on West Coast Marble and Granite

During Q3 2020, West Coast Marble and Granite experienced significant operational restrictions directly attributable to these government orders. The statewide stay-at-home mandate, subsequent rollback of reopening measures, and the strict guidelines imposed by the Blueprint for a Safer Economy framework forced us to limit on-site production and delay certain operations. These restrictions resulted in reduced customer engagement and interruptions in the supply channels essential to our business model. Although we maintained core operations, the overall output and revenue-generating capacity of our business were materially reduced—exceeding the “more than nominal” threshold required under IRS ERC guidance.

ERC Partial Suspension Qualification – IRS Guidance and Analysis

Under the guidelines established by the CARES Act and clarified in various IRS notices, an employer is eligible for the ERC for a given quarter when operations are partially suspended due to government orders. West Coast Marble and Granite did not experience a complete shutdown; however, the cumulative impact of the aforementioned orders resulted in a substantial curtailment of our normal business functions. IRS guidance considers restrictions that reduce operational capacity by more than 10% as sufficient to qualify for a partial suspension. In Q3 2020, our ability to perform routine business activities—including on-site production, client interactions, and logistical operations—was significantly impaired by active COVID-19 orders at multiple governmental levels.

Conclusion and Request

Based on the detailed timeline and extensive analysis provided above, it is clear that West Coast Marble and Granite was subject to a range of governmental orders during the third quarter of 2020 that imposed a partial suspension on our operations. These orders—spanning federal proclamations, California’s statewide mandates, Ventura County directives, and Camarillo city measures—collectively reduced our business capacity well beyond nominal limits. Accordingly, we respectfully request that the IRS reverse the disallowance of our Q3 2020 ERC claim. Our claim is fully supported by the factual impact of these orders and current IRS ERC guidance.

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,

[Signature]

[Name of Authorized Representative]

Authorized Representative for West Coast Marble and Granite

Enclosures: Copies of Government Orders and Relevant Excerpts; ERC Calculations for Q3 2020; Supporting IRS Guidance and Relevant Public Health Orders (including links provided above)