

## IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

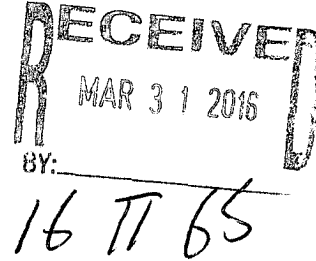
KOMET OF AMERICA, INC.

Petitioner,

v.

THE ILLINOIS DEPARTMENT OF REVENUE,

Defendant.



### PETITION

Petitioner, Komet of America, Inc. ("Komet"), by and through its attorneys, Horwood Marcus & Berk Chartered, complains of the Defendant, the Illinois Department of Revenue ("Department"), and alleges as follows:

### PARTIES

1. Petitioner is an Illinois corporation located at 2050 Mitchell Blvd, Schaumburg, Illinois, 60193; and can be reached at (847) 923-8400.
2. Petitioner is represented by Horwood Marcus & Berk Chartered attorney Jennifer A. Zimmerman located at 500 West Madison St., Suite 3700, Chicago, Illinois 60661 and can be reached at (312) 606-3247 or [jzimmerman@hmbllaw.com](mailto:jzimmerman@hmbllaw.com).
3. Petitioner's FEIN is 36-3195586.
4. Petitioner's Illinois Account Number is 21404-43136.
5. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

### NOTICES

6. The tax involved herein is the Illinois Income Tax Act, 35 ILCS 5/201, et seq.
7. On February 1, 2016, the Department issued Petitioner a separate Notice of Deficiency (collectively known as the "Notices") each for the taxable periods ending December 31,

2011 and 2012 (“Periods at Issue”) in the amounts of \$20,101.00 and \$57,876.39, respectively.

8. True and accurate copies of the Notices are attached hereto as Exhibit A.
9. The Department decreased the Petitioner’s research and development credit for the tax year ending December 31, 2011 (“2011 tax year”).
10. The Department decreased the Petitioner’s research and development credit and replacement tax investment credit, and increased its apportionment factor percentage for the tax year ending December 31, 2012 (“2012 tax year”).
11. The Notices include an assessment for penalties and interest for the Periods at Issue.
12. This petition is being filed within sixty-days of the Notices.

#### **JURISDICTION**

13. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.
14. This Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this petition within 60 days of the Notices.

#### **BACKGROUND**

15. Petitioner is engaged in the manufacturing and sale of cutting tools used by the machine tool industry.
16. Petitioner employs a variety of different engineers to design, develop and test products at an Illinois location for Komet.

#### **COUNT I**

##### **Pursuant to 35 ILCS 5/903 and 35 ILCS 5/905, the Department’s Notice for the 2011 tax year was not timely issued.**

17. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 16, inclusive, hereinabove.
18. 35 ILCS 5/903(b) provides that no deficiency shall be assessed unless a notice of deficiency for such year was issued no later than the date prescribed in 35 ILCS 5/905.

19. 35 ILCS 5/905 provides that where, before the expiration of the time for the issuance of a notice of deficiency, both the Department and the taxpayer have consented in writing to its issuance after such time, such notice of deficiency may be issued at any time prior to the expiration of the period agreed upon.
20. A waiver to extend the statute of limitations to assess tax was agreed upon and consented to in writing between the Petitioner and the Department which extended the statute to issue a notice of deficiency to Petitioner to January 31, 2016 for the 2011 tax year ("Waiver").
21. A true and accurate copy of the Waiver is hereto attached as Exhibit B.
22. Pursuant to 35 ILCS 5/903 and 35 ILCS 5/905, the Department was required to issue the Notice no later than January 31, 2016; provided, however, the Notice was issued after that date on February 1, 2016.
23. As a result, the Notice for the year ending December 31, 2011 was not timely and should be withdrawn.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that the Department did not timely issue its Notice of Deficiency to Petitioner for the 2011 tax year;
- (b) finds and declares that no deficiency shall be assessed for the 2011 tax year and that the Notice of Deficiency for the 2011 tax year shall be withdrawn; and
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

## COUNT II

**Pursuant to Illinois Law, the Petitioner is entitled to a research and development credit for the wages paid to Mr. Wolfgang Ruff for the Periods at Issue.**

24. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 16, inclusive, hereinabove.
25. The Department denied the wages of Mr. Ruff as qualified research and development costs in the amounts of \$155,237 and \$191,128 for the 2011 tax year and 2012 tax year,

respectively. This denial resulted in a reduction in the research and development credit of \$6,370 and \$6,692 for the 2011 tax year and 2012 tax year, respectively.

26. During the Periods at Issue, Illinois law provided that corporations could claim a credit for qualified research and development activities pursuant to 35 ILCS 5/201(k). The Illinois research and development credit was based on increasing qualifying expenditures for research activities conducted in Illinois in excess of a base period that would be allowable under Internal Revenue Code Section 41.
27. Mr. Ruff conducted research and development activities in Illinois during 2012 that meet the criteria set forth in Internal Revenue Code Section 41 such that 100% of his wages should qualify for the Illinois research and development credit for the 2012 tax year.
28. Mr. Ruff conducted research and development activities in Illinois during 2011 that meet the criteria set forth in Internal Revenue Code Section 41 such that 100% of his wages should qualify for the Illinois research and development credit for the 2011 tax year.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares the denial of the qualified research expenses for Mr. Ruff for 2012 were erroneous, and, as such, the Petitioner is entitled to the increase in research and development credit for Mr. Ruff's wages for the 2012 tax year;
- (b) finds and declares the denial of the qualified research expenses for Mr. Ruff for 2011 were erroneous, and, as such, the Petitioner is entitled to the increase in research and development credit for Mr. Ruff's wages for the 2011 tax year;
- (c) enters judgment in favor of Petitioner and against the Defendant and orders Defendant to withdraw the Notices; and
- (d) grants such further relief as the Tribunal deems appropriate under the circumstances.

### COUNT III

#### Penalties should be abated based on Reasonable Cause.

29. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 28, inclusive, hereinabove.
30. In the Notice of Deficiency for the 2012 tax year, the Department assessed a late payment penalty of \$10,672.40.
31. In the Notice of Deficiency for the 2011 tax year, the Department assessed a late payment penalty of \$3,124.80.
32. Illinois law provides that late payment penalties shall not apply if a taxpayer shows that its failure to pay tax at the required time was due to reasonable cause. 35 ILCS 735-8.
33. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion. 86 Ill. Admin. Code §700.400(b).
34. A taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code §700.400(b).
35. Pursuant to 35 ILCS 735/3-8 and 86 ILAC 700.400, Petitioner is entitled to penalty abatement for reasonable cause.
36. Petitioner relied upon an unrelated consulting firm, Tri-Merit LLC, to perform its research and development study and provide the appropriate credit calculation to be included on its Illinois corporate income tax returns for the Periods at Issue.
37. Petitioner's tax assessment for the adjustment to its sales factor numerator for throwback for the 2012 tax year was due to an inadvertent error and was a one-time issue.
38. Petitioner correctly threw back the sales at issue in tax years prior to 2012 as evidenced by the fact that no such adjustment was made to the return filed for the 2011 tax year.
39. Petitioner has historically filed returns and paid its liabilities timely.

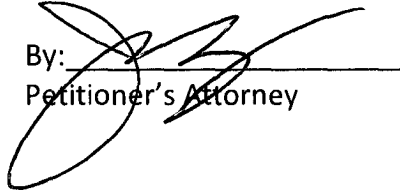
40. Petitioners assessed penalty of \$3,124.80 and \$10,672.40 for the years ending December 31, 2011 and 2012, respectively, should be abated.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that the late payment penalties should be abated based on reasonable cause;
- (b) enters judgment in favor of Petitioner and against the Defendant and orders Defendant to withdraw the Notices;
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,

**Komet of America, Inc.  
Petitioners**

By:   
Petitioner's Attorney

Jennifer Zimmerman  
**HORWOOD MARCUS & BERK CHARTERED**  
500 West Madison Street, Suite 3700  
Chicago, Illinois 60661  
(312) 606-3247

# EXHIBIT A

**Notice of Deficiency****for Form IL-1120, Corporation Income and Replacement Tax Return**

February 1, 2016



Letter ID: CNXXX136117X32X3

#BWNKMGV  
 #CNXX X136 117X 32X3#  
 KOMET OF AMERICA INC  
 2050 MITCHELL BLVD  
 SCHAUMBURG IL 60193-4544

**Taxpayer ID:** 36-3195586  
**Audit ID:** A1714933760  
**Reporting period:** December 2012  
**Total Deficiency:** \$57,876.39  
**Balance due:** \$57,876.39

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

**If you agree to this deficiency**, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to the "Illinois Department of Revenue", write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

**If you do not agree**, you may contest this notice by following the instructions listed below.

- **If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed, but the total penalties and interest is more than \$15,000**, file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- **In all other cases**, file a protest with us, the Illinois Department of Revenue, within **60 days** of the date of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). If we do not receive your protest within **60 days**, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- **In any case**, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due which, may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, call us at the telephone number shown below.

Sincerely,

A handwritten signature in cursive script that reads "Constance Beard".

Constance Beard  
 Director

ILLINOIS DEPARTMENT OF REVENUE  
 AUDIT BUREAU  
 PO BOX 19012  
 SPRINGFIELD IL 62794-9012

(217) 524-4279



## **Bankruptcy Information**

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact you are required to file tax returns.

## **Taxpayer Bill of Rights**

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

# Statement

Date: February 1, 2016  
Name: KOMET OF AMERICA INC  
Taxpayer ID: 36-3195586  
Letter ID: CNXXX136117X32X3

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

## Computation of deficiency

Reporting period: 31-Dec-2012

Income or loss	
Federal taxable income	\$3,764,172.00
Net operating loss deduction	\$0.00
Income tax and replacement tax deduction	\$290,000.00
Illinois bonus depreciation addition	\$1,113,551.00
Other additions	\$0.00
Base income or loss	
Illinois bonus depreciation subtraction	\$114,607.00
Total subtractions	\$114,607.00
Base income or net loss	\$5,053,116.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$0.00
Business income or loss	\$5,053,116.00
Apportionment formula	
Total sales everywhere	\$46,635,962.00
Total Illinois sales	\$21,958,408.00
Apportionment factor	0.470847
Business income/loss apportionable to IL	\$2,379,245.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$0.00
Base income or net loss allocable to IL	\$2,379,245.00
Net income	
Base income or net loss	\$2,379,245.00
IL net loss deduction (NLD)	\$912,346.00
Income after NLD	\$1,466,899.00
Net income	\$2,279,245.00
Net replacement tax	
Replacement tax	\$56,981.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$56,981.00
Replacement tax investment credits	\$8,306.00
Net replacement tax	\$48,675.00
Net income tax	
Income tax	\$159,547.00
Recapture of investment credits	\$0.00

# Statement

Date: February 1, 2016  
Name: KOMET OF AMERICA INC  
Taxpayer ID: 36-3195586  
Letter ID: CNXXX136117X32X3

<b>Computation of deficiency</b>	<b>Reporting period: 31-Dec-2012</b>
Income tax before credits	\$159,547.00
Income tax investment credits	\$1,181.00
Net income tax	\$158,366.00
Refund or balance due	
Net replacement tax	\$48,675.00
Net income tax	\$158,366.00
Total net income and replacement tax due	\$207,041.00
Minus tax previously assessed	-\$163,179.00
Total tax deficiency	\$43,862.00
UPIA-5 late-payment penalty (Audit)	\$10,672.40
Plus interest on tax through February 1, 2016	\$3,341.99
Total deficiency	* \$57,876.39

If you intend to pay under protest, you must pay this total deficiency amount.

<b>Computation of balance due</b>	<b>Reporting period: 31-Dec-2012</b>
Balance due	* \$57,876.39

# Explanation of Audit Adjustments

## Income Tax



February 1, 2016



Letter ID: CNXXX5377383847

Taxpayer ID: 36-3195586

Account ID: 21404-43136

Audit ID: A1714933760

Reporting period: December 2012

\_\_\_\_\_  
#BWNKMGV  
\_\_\_\_\_  
#CNXX XX53 7738 3847#  
KOMET OF AMERICA INC  
2050 MITCHELL BLVD  
SCHAUMBURG IL 60193-4544

### Explanation of adjustments for tax period ending 12/31/2012

	<u>Income change</u>	<u>Tax impact</u>
We adjusted your sales by including in the numerator sales of tangible personal property originating in Illinois and delivered to customers in states in which you are not taxable. [86 IL Adm. Code 100.3370(c)(1)(F); 86 IL Adm. Code 100.3200]	\$0.00	\$40,393.00
We adjusted the sales factor to include in the numerator receipts (other than receipts from sales of tangible personal property) which are allocable to Illinois. [5 ILCS 304(a)(3)(C-5)]	\$0.00	\$0.00
We adjusted your sales factor to include all business receipts on federal 1120, Lines 1 through 10, to the extent not expressly excluded from the sales factor. [86 IL Adm. Code 100.3370(a)(1)]	\$0.00	\$0.00
We adjusted/disallowed your replacement tax investment credit to reflect the correct amount as allowed by Illinois law. [35 ILCS 5/201(e)]	\$0.00	\$3,616.00
We adjusted your research and development credit by eliminating items that do not qualify for the credit. [35 ILCS 5/201(k)]	\$0.00	\$9,353.00



# Notice of Deficiency

for Form IL-1120, Corporation Income and Replacement Tax Return



February 1, 2016



Letter ID: CNXXX26629864X3

#BWNKMGV  
#CNXX XX26 6298 64X3#  
KOMET OF AMERICA INC  
2050 MITCHELL BLVD  
SCHAUMBURG IL 60193-4544

Taxpayer ID: 36-3195586  
Audit ID: A1714933760  
Reporting period: December 2011  
Total Deficiency: \$20,101.00  
Balance due: \$20,101.00

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

**If you agree to this deficiency**, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to the "Illinois Department of Revenue", write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

**If you do not agree, you may contest this notice by following the instructions listed below.**

- **If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed, but the total penalties and interest is more than \$15,000**, file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).
- **In all other cases**, file a protest with us, the Illinois Department of Revenue, within **60 days** of the date of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). If we do not receive your protest within **60 days**, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- **In any case**, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due which, may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

(217) 524-4279

## **Bankruptcy Information**

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact you are required to file tax returns.

## **Taxpayer Bill of Rights**

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

# Statement

Date: February 1, 2016  
Name: KOMET OF AMERICA INC  
Taxpayer ID: 36-3195586  
Letter ID: CNXXXX26629864X3

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

## Computation of deficiency

Reporting period: 31-Dec-2011

Income or loss	
Federal taxable income	\$2,727,678.00
Net operating loss deduction	\$0.00
Income tax and replacement tax deduction	\$195,000.00
Other additions	\$0.00
Base income or loss	
Illinois bonus depreciation subtraction	\$23,242.00
Total subtractions	\$23,242.00
Base income or net loss	\$2,899,436.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$0.00
Business income or loss	\$2,899,436.00
Apportionment formula	
Total sales everywhere	\$40,364,100.00
Total Illinois sales	\$26,026,166.00
Apportionment factor	0.644785
Business income/loss apportionable to IL	\$1,869,513.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$0.00
Base income or net loss allocable to IL	\$1,869,513.00
Net income	
Base income or net loss	\$1,869,513.00
IL net loss deduction (NLD)	\$0.00
Income after NLD	\$957,167.00
Net income	\$1,869,513.00
Net replacement tax	
Replacement tax	\$46,738.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$46,738.00
Replacement tax investment credits	\$23,345.00
Net replacement tax	\$23,393.00
Net income tax	
Income tax	\$130,866.00
Recapture of investment credits	\$0.00
Income tax before credits	\$130,866.00



# Statement

Date: February 1, 2016  
Name: KOMET OF AMERICA INC  
Taxpayer ID: 36-3195586  
Letter ID: CNXXXX26629864X3

## Computation of deficiency

Reporting period: 31-Dec-2011

Income tax investment credits	\$1,438.00
Net income tax	\$129,428.00
Refund or balance due	
Net replacement tax	\$23,393.00
Net income tax	\$129,428.00
Total net income and replacement tax due	\$152,821.00
Minus tax previously assessed	-\$137,197.00
Total tax deficiency	\$15,624.00
UPIA-5 late-payment penalty (Audit)	\$3,124.80
Plus interest on tax through February 1, 2016	\$1,352.20
Total deficiency	* \$20,101.00

If you intend to pay under protest, you must pay this total deficiency amount.

## Computation of balance due

Reporting period: 31-Dec-2011

Balance due	* \$20,101.00
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# Explanation of Audit Adjustments

## Income Tax



February 1, 2016

#BWNKMGV  
#CNXX X111 6385 4247#  
KOMET OF AMERICA INC  
2050 MITCHELL BLVD  
SCHAUMBURG IL 60193-4544



Letter ID: CNXXX11163854247

Taxpayer ID: 36-3195586  
Account ID: 21404-43136  
Audit ID: A1714933760  
Reporting period: December 2011

### Explanation of adjustments for tax period ending 12/31/2011

We adjusted/disallowed your replacement tax investment credit to reflect the correct amount as allowed by Illinois law.

[35 ILCS 5/201(e)]

Income change

\$0.00

Tax impact

\$2,227.00

We adjusted your research and development credit by eliminating items that do not qualify for the credit.

[35 ILCS 5/201(k)]

\$0.00

\$13,397.00



# EXHIBIT B

EXHIBIT B



Illinois Department of Revenue

IL-872 Consent to Extend the Time to Assess or Refund Income Tax

Taxpayer's name Komet America

36-3195586

Account ID

Address 2050 Mitchell BLVD

Number and street or post office box

Schaumburg IL 60193

City State ZIP

Check the box if additional companies are identified on any attachments.

We, the Illinois Department of Revenue and the taxpayer, agree that a notice of deficiency proposing an assessment of additional Illinois Income Tax due for taxable years 12/31/2011 may be issued at any time on or before 01 / 31 / 2016.

In addition, a claim for refund for these taxable years may be filed at any time within six months after the date shown above.

If we issue a notice of deficiency or a claim denial on or before the date shown above and

- a written protest has not been filed, the amount will be considered assessed or finally denied after 60 days (150 days if the taxpayer is outside the United States) of the date of the notice.
the notice or claim has been contested, the amount that is resolved in a final Illinois Department of Revenue or judicial decision will be deemed assessed or refundable once the end of any further appeal period has passed.

It is understood that this consent will not deprive either party of their appeal rights.

You must sign this consent form for it to be valid.

If you filed a joint return for a year covered by this consent, both you and your spouse must sign this consent. If acting under a power of attorney, one may sign as agent for the other.

If you are signing this consent as a taxpayer's attorney or agent, your actions must be specifically authorized by a power of attorney. Form IL-2848, Power of Attorney, must accompany this form, unless it was previously filed.

If you are signing this consent as a person acting in a fiduciary capacity (e.g., executor, administrator, or trustee), Form IL-56, Notice of Fiduciary Relationship, must accompany this form, unless it was previously filed.

Note: If you are a partnership, S corporation, or trust, executing this agreement will automatically extend the statute of limitations for issuing notices of deficiency to, or filing refund claims by your partners, shareholders or beneficiaries through the dates you have agreed to above.

If a corporate or partnership return was filed, this consent form must be signed with the corporate or partnership name, followed by the signature and title of the officer(s) or other authorized person(s).

If seal is used, place it here.

Sign here, if you are an individual, trust, or estate.

Taxpayer's signature Date

Spouse's signature (if filing jointly) Date

Taxpayer's representative Date

This automatic extension for your partners, shareholders or beneficiaries applies only to underpayments or overpayments that result from changes to your return that flow through to their returns.

Sign here, if you are a corporation, S corporation, or partnership

KOMET OF AMERICA, INC
Corporate or Partnership name

Signature of authorized officer or other authorized person

VP FINANCE 3/13/15
Title of authorized officer or other authorized person Date

Illinois Department of Revenue

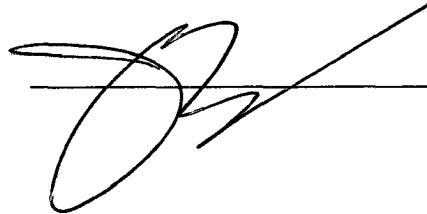
Refer reply to:

Director's signature Date

**CERTIFICATE OF SERVICE**

Undersigned counsel of record hereby certifies that she caused a copy of the foregoing **Komet Of America, Inc.'s Petition** to be served upon other counsel of record herein by electronic mail and by enclosing the same in an envelope, properly addressed, first-class postage prepaid and deposited in the US Mail at 500 West Madison Street, Chicago, Illinois, 60661, before the hour of 5:00 p.m. on the 31st day of March, 2016.

James R. Reynolds  
Illinois Department of Revenue  
100 W. Randolph St., 7-900  
Chicago, IL 60601  
James.R.Reynolds@Illinois.gov

A handwritten signature in black ink, appearing to be 'JR Reynolds', written over a horizontal line.

**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL**

KOMET OF AMERICA, INC.

Petitioner,

v.

THE ILLINOIS DEPARTMENT OF REVENUE,

Defendant.

RECEIVED  
MAR 31 2016  
BY: \_\_\_\_\_

16 TI 65


**NOTICE OF FILING**

To: Illinois Department of Revenue  
Office of Legal Services  
100 W. Randolph St., 7-900  
Chicago, IL 60601

PLEASE TAKE NOTICE that on the 31st day of March, 2016, we filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, IL 60601, **Komet of America Inc.'s Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

**KOMET OF AMERICA, INC.**

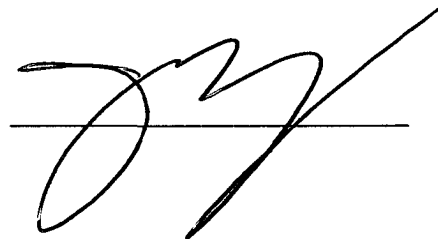
  
\_\_\_\_\_  
Jennifer A. Zimmerman

Fred O. Marcus  
Jennifer A. Zimmerman  
Horwood Marcus & Berk Chartered  
500 West Madison St., Ste 3700  
Chicago, Illinois 60661  
(312) 606-3200

**CERTIFICATE OF SERVICE**

Undersigned counsel of record hereby certifies that she caused a copy of the foregoing **Notice of Filing** to be served upon other counsel of record herein by electronic mail and by enclosing the same in an envelope, properly addressed, first-class postage prepaid and deposited in the US Mail at 500 West Madison Street, Chicago, Illinois, 60661, before the hour of 5:00 p.m. on the 31st day of March, 2016.

James R. Reynolds  
Illinois Department of Revenue  
100 W. Randolph St., 7-900  
Chicago, IL 60601  
James.R.Reynolds@Illinois.gov

A handwritten signature in black ink, appearing to be 'JR', is written over a horizontal line. The signature is stylized and cursive.