

PAPA JOHNS INTERNATIONAL INC
Form 8-K
February 26, 2013
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 24, 2013

PAPA JOHN'S INTERNATIONAL, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-21660
(Commission
File Number)

61-1203323
(IRS Employer
Identification No.)

2002 Papa John's Boulevard
Louisville, Kentucky
(Address of principal executive offices)

40299-2334
(Zip Code)

Registrant's telephone number, including area code: (502) 261-7272

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 4.02. Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

(a)

Accounting for Non-Controlling Interests

In connection with a review of the Company's Annual Report on 2012 Form 10-K among the Audit Committee of the Company's Board of Directors (the "Audit Committee"), and the Company's management, with the assistance of Ernst & Young LLP ("Ernst & Young"), the Company's independent registered public accounting firm, and the Company's outside legal advisors, the Audit Committee has reassessed the accounting of the Company's joint venture agreements. On February 24, 2013, the Board of Directors, acting on the recommendation of the Audit Committee and management, concluded that the Company should restate certain previously issued financial statements as described below.

In connection with the evaluation of the accounting for newly formed joint ventures in 2012, the Company reviewed the accounting for its previously existing joint venture arrangements. As a result of the review, the Company determined an error occurred in the accounting for one joint venture agreement, which contained a mandatorily redeemable feature added through a contract amendment in the third quarter of 2009. This provision contained in the 2009 contract amendment was not previously considered in determining the classification and measurement of the noncontrolling interest. In addition, the Company determined that an additional redeemable noncontrolling interest was incorrectly classified in shareholders' equity and should be classified as temporary equity. As such, the Company is restating its previously issued consolidated financial statements for the years ended December 25, 2011, December 26, 2010, and December 27, 2009 to correct the errors.

Expected Impact of Restatement

In the Annual Report on Form 10-K for the fiscal year ended December 30, 2012, to reflect the appropriate measurement of the mandatorily redeemable noncontrolling interest, the Company will include a \$3.7 million charge, net of income taxes, to ending 2009 retained earnings in our consolidated statements of stockholders' equity to adjust the previously reported balance to its redemption value as of December 27, 2009. Additionally, the Company also will correct the classification errors of its redeemable noncontrolling interests from permanent equity to either other long-term liabilities or redeemable noncontrolling interests in the consolidated balance sheets, as detailed in the tables below.

In the Company's 2009, 2010 and 2011 consolidated statements of income, interest expense, income tax expense and net income were affected as a result of adjusting the mandatorily redeemable noncontrolling interest to its redemption value. The impact of the restatements on the consolidated balance sheets, consolidated statements of income and consolidated statements of cash flows by year is outlined in the tables below. The corrections had no impact on total revenues, operating income or operating cash flows and had no impact on the Company's compliance with debt covenants in any periods presented.

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The following tables summarize the corrections by financial statement line item (in thousands, except per share data):

| | December 25, 2011 | | |
|--|------------------------------|-------------|-------------|
| | As Previously Reported | Adjustments | As Restated |
| Consolidated balance sheet | | | |
| Noncurrent deferred income tax liabilities | \$9,147 | \$ (2,455) | \$6,692 |
| Other long-term liabilities | 25,611 | 11,065 | 36,676 |
| Redeemable noncontrolling interests | - | 3,965 | 3,965 |
| Retained earnings | 298,807 | (4,006) | 294,801 |
| Noncontrolling interests in subsidiaries | 8,569 | (8,569) | - |
| Total stockholders' equity | 218,222 | (12,575) | 205,647 |
| Consolidated statement of income | | | |
| Interest expense | \$1,497 | \$ 1,484 | \$2,981 |
| Income before income taxes | 86,275 | (1,484) | 84,791 |
| Income tax expense | 26,888 | (564) | 26,324 |
| Net income, including noncontrolling interests | 59,387 | (920) | 58,467 |
| Net income, net of noncontrolling interests | 55,655 | (920) | 54,735 |
| Comprehensive income | 60,387 | (920) | 59,467 |
| Basic earnings per common share | 2.22 | (0.03) | 2.19 |
| Earnings per common share - assuming dilution | 2.20 | (0.04) | 2.16 |
| Consolidated statement of cash flows | | | |
| Net income | \$59,387 | \$ (920) | \$58,467 |
| Deferred income taxes | 9,909 | (564) | 9,345 |
| Other | 3,072 | 1,484 | 4,556 |
| Net cash provided by operating activities | 101,008 | - | 101,008 |

| | December 26, 2010 | | |
|---|------------------------------|-------------|-------------|
| | As Previously Reported | Adjustments | As Restated |
| Consolidated balance sheet | | | |
| Noncurrent deferred income tax liabilities (assets) | \$341 | \$ (1,892) | \$(1,551) |
| Other long-term liabilities | 26,604 | 9,972 | 36,576 |
| Redeemable noncontrolling interests | - | 3,512 | 3,512 |
| Retained earnings | 243,152 | (3,086) | 240,066 |
| Noncontrolling interests in subsidiaries | 8,506 | (8,506) | - |
| Total stockholders' equity | 207,200 | (11,592) | 195,608 |
| Consolidated statement of income | | | |
| Interest expense | \$5,338 | \$ (1,029) | \$4,309 |
| Income before income taxes | 82,281 | 1,029 | 83,310 |
| Income tax expense | 26,856 | 391 | 27,247 |
| Net income, including noncontrolling interests | 55,425 | 638 | 56,063 |
| Net income, net of noncontrolling interests | 51,940 | 638 | 52,578 |
| Comprehensive income | 57,358 | 638 | 57,996 |
| Basic earnings per common share | 1.97 | 0.03 | 2.00 |

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| | | | |
|---|----------|----------|----------|
| Earnings per common share - assuming dilution | 1.96 | 0.03 | 1.99 |
| Consolidated statement of cash flows | | | |
| Net income | \$55,425 | \$ 638 | \$56,063 |
| Deferred income taxes | 4,553 | 391 | 4,944 |
| Other | 286 | (1,029) | (743) |
| Net cash provided by operating activities | 92,851 | - | 92,851 |

| | December 27, 2009 | | |
|--|-------------------|-------------|-------------|
| | As | | |
| | Previously | | |
| | Reported | Adjustments | As Restated |
| Consolidated balance sheet | | | |
| Noncurrent deferred income tax assets | \$(6,804) | \$ (2,283) | \$(9,087) |
| Other long-term liabilities | 16,886 | 10,960 | 27,846 |
| Redeemable noncontrolling interests | - | 3,215 | 3,215 |
| Retained earnings | 191,212 | (3,724) | 187,488 |
| Noncontrolling interests in subsidiaries | 8,168 | (8,168) | - |
| Total stockholders' equity | 185,037 | (11,892) | 173,145 |
| Consolidated statement of income | | | |
| Interest expense | \$5,653 | \$ 6,007 | \$11,660 |
| Income before income taxes | 90,194 | (6,007) | 84,187 |
| Income tax expense | 28,985 | (2,283) | 26,702 |
| Net income, including noncontrolling interests | 61,209 | (3,724) | 57,485 |
| Net income, net of noncontrolling interests | 57,453 | (3,724) | 53,729 |
| Comprehensive income | 63,943 | (3,724) | 60,219 |
| Basic earnings per common share | 2.07 | (0.13) | 1.94 |
| Earnings per common share - assuming dilution | 2.06 | (0.13) | 1.93 |
| Consolidated statement of cash flows | | | |
| Net income | \$61,209 | \$ (3,724) | \$57,485 |
| Deferred income taxes | 7,469 | (2,283) | 5,186 |
| Other | 1,071 | 6,007 | 7,078 |
| Net cash provided by operating activities | 103,826 | - | 103,826 |

| | As of and For The Three Months Ended March 25, 2012 | |
|--|---|-------------|
| | As | |
| | Previously Reported | As Restated |
| Condensed consolidated balance sheet | | |
| Noncurrent deferred income tax liabilities | \$7,264 | \$4,954 |
| Other long-term liabilities | 23,795 | 34,992 |
| Redeemable noncontrolling interests | - | 4,777 |
| Retained earnings | 315,551 | 311,782 |
| Noncontrolling interests in subsidiaries | 9,895 | - |
| Total stockholders' equity | 227,835 | 214,171 |
| Condensed consolidated statement of comprehensive income | | |
| Interest expense (income) | \$288 | \$(94) |
| Income before income taxes | 27,138 | 27,520 |
| Income tax expense | 9,068 | 9,213 |
| Net income, including noncontrolling interests | 18,070 | 18,307 |
| Net income, net of noncontrolling interests | 16,744 | 16,981 |
| Comprehensive income | 18,281 | 18,518 |
| Basic earnings per common share | 0.70 | 0.71 |
| Earnings per common share - assuming dilution | 0.69 | 0.69 |
| Consolidated statement of cash flows | | |
| Net income, including noncontrolling interests | \$18,070 | \$18,307 |
| Deferred income taxes | (1,057) | (912) |
| Other | 678 | 296 |
| Net cash provided by operating activities | 44,093 | 44,093 |

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| | As of and For The Three Months Ended June 24, 2012 | | As of and For The Six Months Ended June 24, 2012 | |
|---|--|-------------|--|-------------|
| | As | | As | |
| | Previously Reported | As Restated | Previously Reported | As Restated |
| Condensed consolidated balance sheet | | | | |
| Noncurrent deferred income tax liabilities | \$9,648 | \$7,044 | \$9,648 | \$7,044 |
| Other long-term liabilities | 23,638 | 35,170 | 23,638 | 35,170 |
| Redeemable noncontrolling interests | - | 4,458 | - | 4,458 |
| Retained earnings | 330,320 | 326,071 | 330,320 | 326,071 |
| Noncontrolling interests in subsidiaries | 9,137 | - | 9,137 | - |
| Total stockholders' equity | 225,546 | 212,160 | 225,546 | 212,160 |
| Condensed consolidated statements of comprehensive income | | | | |
| Interest expense | \$282 | \$1,056 | \$570 | \$962 |
| Income before income taxes | 24,240 | 23,466 | 51,378 | 50,986 |
| Income tax expense | 8,299 | 8,005 | 17,367 | 17,218 |
| Net income, including noncontrolling interests | 15,941 | 15,461 | 34,011 | 33,768 |
| Net income, net of noncontrolling interests | 14,769 | 14,289 | 31,513 | 31,270 |
| Comprehensive income | 15,490 | 15,010 | 33,771 | 33,528 |
| Basic earnings per common share | 0.62 | 0.60 | 1.32 | 1.31 |
| Earnings per common share - assuming dilution | 0.61 | 0.59 | 1.30 | 1.29 |
| Consolidated statement of cash flows | | | | |
| Net income, including noncontrolling interests | | | \$34,011 | \$33,768 |
| Deferred income taxes | | | 1,946 | 1,797 |
| Other | | | 2,480 | 2,872 |
| Net cash provided by operating activities | | | 65,162 | 65,162 |

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| | As of and For The Three Months Ended September 23, 2012 | | As of and For The Nine Months Ended September 23, 2012 | |
|---|---|-------------|--|-------------|
| | As Previously Reported | As Restated | As Previously Reported | As Restated |
| Condensed consolidated balance sheet | | | | |
| Noncurrent deferred income tax liabilities | \$10,508 | \$7,830 | \$10,508 | \$7,830 |
| Other long-term liabilities | 24,611 | 36,269 | 24,611 | 36,269 |
| Redeemable noncontrolling interests | - | 4,820 | - | 4,820 |
| Retained earnings | 343,471 | 339,101 | 343,471 | 339,101 |
| Noncontrolling interests in subsidiaries | 9,430 | - | 9,430 | - |
| Total stockholders' equity | 217,806 | 204,006 | 217,806 | 204,006 |
| Condensed consolidated statements of comprehensive income | | | | |
| Interest expense | \$284 | \$478 | \$854 | \$1,440 |
| Income before income taxes | 21,057 | 20,863 | 72,435 | 71,849 |
| Income tax expense | 7,112 | 7,038 | 24,479 | 24,256 |
| Net income, including noncontrolling interests | 13,945 | 13,825 | 47,956 | 47,593 |
| Net income, net of noncontrolling interests | 13,151 | 13,031 | 44,664 | 44,301 |
| Comprehensive income | 15,192 | 15,072 | 48,963 | 48,600 |
| Basic earnings per common share | 0.57 | 0.56 | 1.89 | 1.87 |
| Earnings per common share - assuming dilution | 0.55 | 0.55 | 1.85 | 1.84 |
| Consolidated statement of cash flows | | | | |
| Net income, including noncontrolling interests | | | \$47,956 | \$47,593 |
| Deferred income taxes | | | 647 | 424 |
| Other | | | 3,789 | 4,375 |
| Net cash provided by operating activities | | | 94,773 | 94,773 |

| | As of and For The Three Months Ended March 27, 2011 | |
|--|---|-------------|
| | As | |
| | Previously Reported | As Restated |
| Condensed consolidated balance sheet | | |
| Noncurrent deferred income tax liabilities (assets) | \$1,138 | \$(1,030) |
| Other long-term liabilities | 12,219 | 22,677 |
| Redeemable noncontrolling interests | - | 3,146 |
| Retained earnings | 259,579 | 256,042 |
| Noncontrolling interests in subsidiaries | 7,899 | - |
| Total stockholders' equity | 223,416 | 211,980 |
| Condensed consolidated statement of comprehensive income | | |
| Interest expense | \$608 | \$1,335 |
| Income before income taxes | 26,780 | 26,053 |
| Income tax expense | 9,231 | 8,955 |
| Net income, including noncontrolling interests | 17,549 | 17,098 |
| Net income, net of noncontrolling interests | 16,427 | 15,976 |
| Comprehensive income | 18,822 | 18,371 |
| Basic earnings per common share | 0.64 | 0.63 |
| Earnings per common share - assuming dilution | 0.64 | 0.62 |
| Consolidated statement of cash flows | | |
| Net income, including noncontrolling interests | \$17,549 | \$17,098 |
| Deferred income taxes | 2,664 | 2,388 |
| Other | 43 | 770 |
| Net cash provided by operating activities | 26,687 | 26,687 |

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| | As of and For The Three Months Ended June 26, 2011 | | As of and For The Six Months Ended June 26, 2011 | |
|---|--|-------------|--|-------------|
| | As Previously Reported | As Restated | As Previously Reported | As Restated |
| Condensed consolidated balance sheet | | | | |
| Noncurrent deferred income tax liabilities | \$3,485 | \$1,283 | \$3,485 | \$1,283 |
| Other long-term liabilities | 12,478 | 23,153 | 12,478 | 23,153 |
| Redeemable noncontrolling interests | - | 3,648 | - | 3,648 |
| Retained earnings | 271,703 | 268,110 | 271,703 | 268,110 |
| Noncontrolling interests in subsidiaries | 8,528 | - | 8,528 | - |
| Total stockholders' equity | 223,801 | 211,680 | 223,801 | 211,680 |
| Condensed consolidated statements of comprehensive income | | | | |
| Interest expense | \$293 | \$383 | \$901 | \$1,718 |
| Income before income taxes | 19,067 | 18,977 | 45,847 | 45,030 |
| Income tax expense | 6,014 | 5,980 | 15,245 | 14,935 |
| Net income, including noncontrolling interests | 13,053 | 12,997 | 30,602 | 30,095 |
| Net income, net of noncontrolling interests | 12,124 | 12,068 | 28,551 | 28,044 |
| Comprehensive income | 12,539 | 12,483 | 31,361 | 30,854 |
| Basic earnings per common share | 0.48 | 0.47 | 1.12 | 1.10 |
| Earnings per common share - assuming dilution | 0.47 | 0.47 | 1.11 | 1.09 |
| Consolidated statement of cash flows | | | | |
| Net income, including noncontrolling interests | | | \$30,602 | \$30,095 |
| Deferred income taxes | | | 4,332 | 4,022 |
| Other | | | 316 | 1,133 |
| Net cash provided by operating activities | | | 52,925 | 52,925 |

| | As of and For The Three Months Ended September 25, 2011 | | As of and For The Nine Months Ended September 25, 2011 | |
|---|---|-------------|--|-------------|
| | As Previously Reported | As Restated | As Previously Reported | As Restated |
| Condensed consolidated balance sheet | | | | |
| Noncurrent deferred income tax liabilities | \$7,110 | \$4,710 | \$7,110 | \$4,710 |
| Other long-term liabilities | 11,542 | 22,545 | 11,542 | 22,545 |
| Redeemable noncontrolling interests | - | 3,558 | - | 3,558 |
| Retained earnings | 282,826 | 278,910 | 282,826 | 278,910 |
| Noncontrolling interests in subsidiaries | 8,245 | - | 8,245 | - |
| Total stockholders' equity | 212,554 | 200,393 | 212,554 | 200,393 |
| Condensed consolidated statements of comprehensive income | | | | |
| Interest expense | \$282 | \$804 | \$1,183 | \$2,522 |
| Income before income taxes | 16,846 | 16,324 | 62,693 | 61,354 |
| Income tax expense | 4,906 | 4,707 | 20,151 | 19,642 |
| Net income, including noncontrolling interests | 11,940 | 11,617 | 42,542 | 41,712 |
| Net income, net of noncontrolling interests | 11,123 | 10,800 | 39,674 | 38,844 |
| Comprehensive income | 11,687 | 11,364 | 43,048 | 42,218 |
| Basic earnings per common share | 0.45 | 0.43 | 1.57 | 1.54 |
| Earnings per common share - assuming dilution | 0.44 | 0.43 | 1.55 | 1.52 |
| Consolidated statement of cash flows | | | | |
| Net income, including noncontrolling interests | | | \$42,542 | \$41,712 |
| Deferred income taxes | | | 5,219 | 4,711 |
| Other | | | 1,272 | 2,611 |
| Net cash provided by operating activities | | | 87,216 | 87,216 |

Restatement of Financial Information

The Company will restate its financial results for the 2009, 2010 and 2011 fiscal years as well as the first, second and third quarters of 2012. Accordingly, the annual and interim financial statements for 2009, 2010, and 2011 and interim financial statements for 2012 should no longer be relied upon.

The restated financial statements for fiscal years 2010 and 2011 will be included in the Company's Annual Report on Form 10-K for its fiscal year ended December 30, 2012, which the Company anticipates filing on February 28, 2013. The Company will also amend its Annual Report on Form 10-K for the year ended December 25, 2011 and the Quarterly Reports on Form 10-Q for the first three quarters of 2012 prior to the filing of its Quarterly Report on Form 10-Q for the quarter ended March 31, 2013.

Section 404 of the Sarbanes-Oxley Act

Under Section 404 of the Sarbanes-Oxley Act, management, including our CEO and CFO, has assessed the effectiveness of our internal control over financial reporting using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) in Internal Control—Integrated Framework. This evaluation identified a material weakness in our internal control regarding our accounting for certain redemption features of the noncontrolling interests of our joint venture agreements. Specifically, the review controls in place with respect to non-routine contractual changes or amendments were not effective. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the Company’s annual or interim financial statements will not be prevented or detected on a timely basis. As a result, management believes that our internal control over financial reporting was not effective as of December 30, 2012, based on the COSO criteria.

The Company has implemented certain remedial measures including a review of all existing joint venture agreements to ensure the accounting for any such redemption features was in compliance with U.S. generally accepted accounting principles. In addition, we are in the process of developing enhanced control procedures designed to ensure proper accounting for any future non-routine contracts or contract amendments. The material weakness cannot be considered remediated until the applicable remedial controls operate for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively.

Disclosures About Forward-Looking Statements

This report contains forward-looking statements within the safe harbor provisions of the Private Securities Litigation Report Act of 1995. All statements other than those that are purely historical are forward-looking statements. Words such as “expect,” “will,” “anticipate,” “believe,” “estimate,” “intend,” “plan,” “potential” and similar expressions also identify forward-looking statements. Forward-looking statements include statements regarding expected timing of filings, materiality or significance, the quantitative effects of the restated financial statements, and any anticipated conclusions of the Company, the Audit Committee or management.

Because these forward-looking statements involve risks and uncertainties, there are important factors that could cause our actual results, as well as our expectations regarding materiality or significance, the restatement’s quantitative effects, the effectiveness of our disclosure controls and procedures, and our deficiencies in internal control over financial reporting to differ materially from those in the forward-looking statements. These factors include the risk that additional information may arise prior to the expected filings with the SEC with the restated financial statements, the preparation of our restated financial statements or other subsequent events that would require us to make additional adjustments, as well as inherent limitations in internal controls over financial reporting.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PAPA JOHN’S INTERNATIONAL, INC.
(Registrant)

Date: February 26, 2013

/s/Lance F. Tucker
Lance F. Tucker

Chief Financial Officer, Chief Administrative Officer and
Treasurer