ACTUATE CORP
Form 10-Q
November 07, 2012
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2012

OR

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission File No. 0-24607

Actuate Corporation

(Exact name of Registrant as specified in its charter)

Delaware	**94-3193197** **(I.R.S. Employer**
(State of incorporation)	**Identification No.)**

951 Mariners Island Boulevard,

San Mateo, California 94404

(650) 645-3000

(including area code, of Registrant s principal executive offices)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of large accelerated filer , accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	¨	Accelerated filer	x
Non-accelerated filer	¨ (Do not check if a smaller reporting company)	Smaller reporting company	¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

Indicate the number of shares outstanding of each of the issuer s classes of common stock as of the latest practicable date.

Title of Class	**Outstanding as of October 31, 2012**
Common Stock, par value $.001 per share	48,968,373

Table of Contents

Actuate Corporation

Table of Contents

PART I FINANCIAL INFORMATION

Item 1.	Financial Statements	3
	Condensed Consolidated Balance Sheets as of September 30, 2012 and December 31, 2011	3
	Condensed Consolidated Statements of Income for the three and nine months ended September 30, 2012 and 2011	4
	Condensed Consolidated Statements of Comprehensive Income for the three and nine months ended September 30, 2012 and 2011	5
	Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2012 and 2011	6
	Notes to Condensed Consolidated Financial Statements	7
Item 2.	Management s Discussion and Analysis of Financial Condition and Results of Operations	21
Item 3.	Quantitative and Qualitative Disclosures about Market Risk	33
Item 4.	Controls and Procedures	34
	PART II OTHER INFORMATION	
Item 1.	Legal Proceedings	34
Item 1A.	Risk Factors	34
Item 2.	Unregistered Sales of Equity Securities and Use of Proceeds	45
Item 6.	Exhibits	46
Signatures		47

Table of Contents

Part I. Financial Information

Item 1. Financial Statements

ACTUATE CORPORATION

CONDENSED CONSOLIDATED BALANCE SHEETS

(in thousands except share and per share data)

(unaudited)

	September 30, 2012	December 31, 2011
ASSETS		
Current assets:		
Cash and cash equivalents	$ 39,453	$ 38,759
Short-term investments	35,147	28,669
Accounts receivable, net of allowances of $400 and $720 at September 30, 2012 and December 31, 2011, respectively	20,140	26,844
Other current assets	10,012	7,131
Total current assets	104,752	101,403
Property and equipment, net	7,966	1,927
Goodwill	46,424	46,424
Purchased intangibles, net	9,733	11,421
Non-current deferred tax assets, net	12,952	14,876
Other assets	783	853
	$ 182,610	$ 176,904
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities:		
Accounts payable	$ 1,345	$ 1,521
Current portion of restructuring liabilities	108	98
Accrued compensation	5,355	5,992
Other accrued liabilities	4,612	5,872
Deferred revenue	37,073	43,045
Total current liabilities	48,493	56,528
Long-term liabilities:		
Other liabilities	3,158	20
Long-term deferred revenue	1,305	1,717
Long-term income taxes payable	1,350	1,670
Restructuring liabilities, net of current portion	27	106
Total long-term liabilities	5,840	3,513

Stockholders equity:		
Preferred stock, $0.001 par value, issuable in series; 5,000,000 shares authorized; none issued or outstanding		
Common stock, $0.001 par value, 100,000,000 shares authorized; issued 88,064,036 and 85,270,644 shares, respectively; outstanding 48,940,248 and 48,518,460 shares, respectively	49	48
Additional paid-in capital	232,393	214,770
Treasury stock, at cost; 39,123,788 and 36,752,184 shares, respectively	(163,321)	(147,331)
Accumulated other comprehensive income	1,654	1,419
Retained earnings	57,502	47,957
Total stockholders equity	128,277	116,863
	$ 182,610	$ 176,904

The accompanying notes are an integral part of these condensed consolidated financial statements.

3

Table of Contents

ACTUATE CORPORATION

CONDENSED CONSOLIDATED STATEMENTS OF INCOME

(in thousands, except per share data)

(unaudited)

	Three Months Ended September 30, 2012	Three Months Ended September 30, 2011	Nine months Ended September 30, 2012	Nine months Ended September 30, 2011
Revenues:				
License fees	$ 13,304	$ 11,815	$ 42,389	$ 35,914
Services	18,875	21,994	60,854	63,721
Total revenues	32,179	33,809	103,243	99,635
Costs and expenses:				
Cost of license fees	482	424	1,439	1,366
Cost of services	5,187	4,998	15,267	15,653
Sales and marketing	12,067	10,423	35,811	31,819
Research and development	6,060	5,830	17,668	18,480
General and administrative	5,360	4,885	16,918	15,623
Amortization of other purchased intangibles	289	289	867	1,007
Asset impairment				1,681
Restructuring charges	21	158	54	889
Total costs and expenses	29,466	27,007	88,024	86,518
Income from operations	2,713	6,802	15,219	13,117
Interest income and other income/(expense), net	174	982	763	(840)
Interest expense	(55)	(136)	(255)	(781)
Income before income taxes	2,832	7,648	15,727	11,496
Provision for income taxes	2,725	2,926	6,182	4,514
Net income	$ 107	$ 4,722	$ 9,545	$ 6,982
Basic net income per share	$ 0.00	$ 0.10	$ 0.19	$ 0.15
Shares used in basic per share calculation	49,207	48,058	49,156	46,873
Diluted net income per share	$ 0.00	$ 0.09	$ 0.18	$ 0.14
Shares used in diluted per share calculation	52,794	52,285	52,794	51,224

The accompanying notes are an integral part of these condensed consolidated financial statements.

4

Table of Contents

ACTUATE CORPORATION

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(in thousands, unaudited)

	Three Months Ended September 30,		Nine months Ended September 30,	
	2012	2011	2012	2011
Net income	$ 107	$ 4,722	$ 9,545	$ 6,982
Other comprehensive income, before tax:				
Foreign currency translation gain/(loss)	$ 257	$ (1,381)	$ 161	$ 633
Net unrealized gain/(loss) on securities	60	(48)	74	(59)
Other comprehensive income/(loss), before tax	$ 317	$ (1,429)	$ 235	$ 574
Tax provision (benefit) related to other comprehensive income	124	(547)	92	225
Other comprehensive income/(loss), net of tax	$ 193	$ (882)	$ 143	$ 349
Comprehensive income	$ 300	$ 3,840	$ 9,688	$ 7,331

The accompanying notes are an integral part of these condensed consolidated financial statements.

5

Table of Contents

ACTUATE CORPORATION

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands, unaudited)

	Nine months Ended September 30, 2012	2011
Operating activities		
Net income	$ 9,545	$ 6,982
Adjustments to reconcile net income to net cash provided by operating activities:		
Share-based compensation expense	5,454	3,888
Excess tax benefit from exercise of stock options	(2,440)	(2,729)
Amortization of other purchased intangibles	1,687	1,827
Amortization of debt issuance cost	51	216
Depreciation	1,587	1,524
Change in valuation allowance on deferred tax assets	1,767	1
Impairment of intangible assets	89	1,681
Accretion/amortization on short-term debt securities	189	(294)
Changes in operating assets and liabilities, net of acquired assets and assumed liabilities:		
Accounts receivable, net of allowance	6,704	6,650
Other current assets	(2,635)	96
Accounts payable	(241)	(388)
Accrued compensation	(637)	(1,329)
Other accrued liabilities	(521)	(363)
Deferred tax assets, net of liabilities	170	584
Income taxes receivable/payable, net	(872)	(2,187)
Other deferred liabilities	3,138	(247)
Restructuring liabilities	(69)	(1,069)
Deferred revenue	(6,384)	(555)
Net cash provided by operating activities	16,582	14,288
Investing activities		
Purchases of property and equipment	(5,038)	(509)
Proceeds from sale and maturity of investments	22,694	59,366
Purchases of short-term investments	(29,286)	(33,176)
Security deposits and other	(55)	115
Net cash provided by (used in) investing activities	(11,685)	25,796
Financing activities		
Repayment of long term debt	(34)	(40,000)
Excess tax benefit from exercise of stock options	2,440	2,729
Proceeds from issuance of common stock	9,223	11,698
Stock repurchases	(15,993)	(4,999)
Net cash used in financing activities	(4,364)	(30,572)
Effect of exchange rates on cash and cash equivalents	161	633
Net increase in cash and cash equivalents	694	10,145

Cash and cash equivalents at the beginning of the period	38,759	33,269
Cash and cash equivalents at the end of the period	$ 39,453	$ 43,414
Supplemental cash flow disclosures:		
Cash paid for interest and unused fees on the revolving credit line	$ 212	$ 559
Cash paid for income taxes	$ 3,448	$ 6,321
Non-cash Investing activities:		
Leasehold incentives subsidized by the landlord	$ 2,613	$

The accompanying notes are an integral part of these condensed consolidated financial statements.

Table of Contents

ACTUATE CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. Summary of Significant Accounting Policies

The Company

Actuate Corporation (we , Actuate or the Company) was incorporated in November 1993 in the State of California and reincorporated in the State of Delaware in July 1998. Actuate provides software and services to develop and deploy custom Business Intelligence and information applications that deliver rich interactive content to improve customer loyalty and corporate performance. Applications built on Actuate s open source-based platform provide stakeholders inside and outside the firewall, including employees, customers, partners and citizens with information that they can access and understand to maximize revenue, cut costs, improve customer satisfaction, streamline operations, create competitive advantage and make better decisions. Our goal is to ensure that all users can use decision-making information in their day-to-day activities, opening up completely new avenues for improving corporate performance.

As of the date of filing this 10-Q, Actuate s principal executive offices are located at the BayCenter Campus in San Mateo, California. Actuate s telephone number is 650-645-3000. Actuate maintains Web sites at www.actuate.com, www.birt-exchange.org and www.birt-exchange.com.

Basis of Presentation

The Company has prepared the accompanying unaudited condensed consolidated financial statements pursuant to the rules and regulations of the Securities and Exchange Commission (SEC). Pursuant to these rules and regulations, the Company has condensed or omitted certain information and footnote disclosures it normally includes in its annual consolidated financial statements prepared in accordance with U.S. generally accepted accounting principles (GAAP). In management s opinion, the Company has made all adjustments (consisting only of normal, recurring adjustments, except as otherwise indicated) necessary to fairly present its financial position, results of operations and cash flows. The Company s interim period operating results do not necessarily indicate the results that may be expected for any other interim period or for the full fiscal year. These financial statements and accompanying notes should be read in conjunction with the consolidated financial statements and notes thereto in Actuate s Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed with the SEC on March 9, 2012.

To prepare financial statements in conformity with GAAP, management must make estimates and assumptions that affect the amounts reported in the unaudited condensed consolidated financial statements and accompanying notes. Actual results could differ from these estimates and may result in material effects on the Company s operating results and financial position.

The consolidated financial statements include the accounts of Actuate and its wholly-owned and majority-owned subsidiaries. Actuate has offices throughout North America, Europe and Asia including offices in the United States, Canada, Switzerland, United Kingdom, Germany, Singapore, Japan and China. All intercompany balances and transactions have been eliminated.

Revenue Recognition

Actuate generates revenues from the sales of software licenses and related services. The Company receives software license revenues from licensing its products directly to end-users and indirectly through resellers, system integrators and original equipment manufacturers (OEMs). The Company receives service revenues from maintenance contracts, consulting services and training that Actuate performs for customers.

For sales to end-user customers, Actuate recognizes license revenues when a license agreement has been signed by both parties or a definitive agreement has been received from the customer, the product has been physically shipped or electronically made available, there are no unusual uncertainties surrounding the product acceptance, the fees are fixed or determinable, collectability is probable and vendor-specific objective evidence of fair value exists to allocate the fee to the undelivered elements of the arrangement. Vendor-specific objective evidence of fair value of sales to end users is based on the price charged when an element is sold separately.

Actuate has not established vendor-specific objective evidence of fair value for its licenses. Therefore, the Company recognizes revenues from software arrangements with multiple elements involving software licenses under the residual method, which means the fair value of the undelivered elements is deferred while the remaining value of the arrangement is allocated to the delivered elements. If an agreement includes a bundled fee comprised of license and services, then the company separates this bundled fee into its individual revenue components based on the vendor-specific objective evidence (VSOE) of fair value of the services, with the remainder being allocated to license revenue. If the license agreement contains payment terms that would indicate that the fee is not fixed or determinable, revenues are recognized as the payments become due and payable, assuming that all other revenue recognition criteria are met.

Table of Contents

Actuate enters into reseller and distributor arrangements that typically give such distributors and resellers the right to distribute its products to end-users headquartered in specified territories. Actuate recognizes license revenues from arrangements with resellers and distributors when there is persuasive evidence of an arrangement with the reseller or distributor, the product has been shipped, the fees are fixed or determinable, collectability is probable and vendor-specific objective evidence of fair value exists to allocate the fee to the undelivered elements of the arrangement. Actuate recognizes license revenues from arrangements with resellers and distributors when all other revenue recognition criteria have been met.

Actuate also enters into OEM arrangements that provide for license fees based on the bundling or embedding of its products with the OEM s products. These arrangements generally provide for fixed, irrevocable royalty payments. Actuate recognizes license fee revenues from U.S. and international OEM arrangements when a license agreement has been executed by both parties, the product has been shipped, there are no unusual uncertainties surrounding the product acceptance, the fees are fixed or determinable, collectability is probable and vendor-specific objective evidence of fair value exists to allocate the fee to the undelivered elements of the arrangement.

Actuate also has two software-as-a-service (SaaS) offerings called OnPerformance and BIRT On Demand. Actuate recognizes revenue on these licenses ratably over the term of the underlying arrangement.

The Company typically establishes vendor specific objective evidence of fair value for maintenance and support, consulting and training using a bell-shaped curve approach. However, for certain types of license transactions, including OEM and site licenses, the Company uses a stated maintenance renewal approach.

The Company assesses the collectability of fees from end-users based on payment history and current credit profile. When a customer is not deemed credit-worthy, revenues are deferred and recognized upon cash receipt.

Actuate recognizes maintenance revenues, which consist of fees for ongoing support and unspecified product updates, ratably over the term of the contract, typically one year. Consulting revenues are primarily related to standard implementation and configuration. Training revenues are generated from classes offered at the Company s offices and customer locations. Revenues from consulting and training services are typically recognized as the services are performed. When a contract includes both license and service elements, the license fee is typically recognized on delivery of the software, assuming all other revenue recognition criteria are met, provided services do not include significant customization or modification of the product and are not otherwise essential to the functionality of the software. Our license agreements include indemnification for infringement of third party intellectual property rights and certain warranties. Historically, the Company has not experienced significant claims under these contractual rights. Therefore, no amounts have been accrued relating to those indemnities and warranties.

Share-Based Compensation

The Company has various types of share-based compensation plans. These plans are administered by the compensation committee of the Board of Directors, which selects persons to receive awards and determines the number of shares subject to each award and the terms, conditions, performance measures and other provisions of the award. Readers should refer to Note 9 of the Company s consolidated financial statements in the Annual Report on Form 10-K for the fiscal year ended December 31, 2011, for additional information related to these share-based compensation plans. Share-based compensation expense and the related income tax benefit reflected in the Condensed Consolidated Statements of Income in connection with stock options, restricted stock units and the Employee Stock Purchase Plan (ESPP) for three and nine months ended September 30, 2012 and 2011 were as follows (in thousands):

	Three Months Ended		Nine months Ended	
	September 30, 2012	September 30, 2011	September 30, 2012	September 30, 2011
Stock options	$ 1,490	$ 579	$ 3,994	$ 3,199
Restricted stock units	341	203	865	617
Performance stock units (MSUs)	229		353	
ESPP	150	192	392	680
Total share-based compensation	$ 2,210	$ 974	$ 5,604	$ 4,496
Income tax benefit	$ 711	$ 256	$ 1,805	$ 1,294

Table of Contents

Included in the total share-based compensation for the three and nine months ending September 30, 2012 are approximately $16,000 of credits to stock based compensation and approximately $150,000 of stock based compensation classified as liability based awards.

In May 2012, market-performance based restricted stock units (MSUs) were granted to the Chief Executive Officer and Chief Financial Officer of the Company. Each MSU represents the right to one share of Actuate s common stock. The actual number of MSUs which will be eligible to vest will be based on the performance of Actuate s stock price relative to the performance of the S&P Small Cap 600 Index over a two-year vesting period, up to 200% of the MSUs initially granted. After the initial performance period, 50% of the earned award vests immediately and the remaining 50% is subject to an additional one year service period. We valued the MSUs using the Monte Carlo simulation model and amortize the compensation expense over the three year performance and service period.

The fair value of each stock option award is estimated on the date of grant using the Black-Scholes-Merton option pricing model. We estimated the expected term of options granted by analyzing actual historical experience of exercises and cancellations under our plan. We also looked at the average length of time in which our current outstanding options are expected to be exercised or cancelled based on past experience and the vesting and contractual term. We estimated the volatility of our common stock by using historical volatility over the calculated expected term. We based the risk-free interest rate that we use in the option valuation model on the published Treasury rate. We do not anticipate paying any cash dividends in the foreseeable future and therefore used an expected dividend yield of zero in the option valuation model. The assumptions used to estimate the fair value of stock options granted and stock purchase rights granted under our ESPP Plan for the nine months ended September 30, 2012 and 2011 are as follows:

	Options Nine months Ended		**ESPP Nine months Ended**	
	September 30, 2012	**September 30, 2011**	**September 30, 2012**	**September 30, 2011**
Volatility	53.67 54.17%	53.88 54.38%	42.12 44.17%	37.36 42.34%
Expected term (years)	5.60 5.63	5.57 5.69	1.25	1.25
Risk free interest rate	0.63 1.01%	0.96 2.21%	0.13 0.17%	0.22% 0.27%
Expected dividend yield	0%	0%	0%	0%
Forfeiture rate	2 4%	2 4%	N/A	N/A

Beginning January 2010, restricted stock units (RSUs) were granted to senior management as part of the Company s annual incentive compensation program under the Amended and Restated 1998 Equity Incentive Plan. RSUs are valued based on the closing price of the Company s common stock on the grant date. In general, restricted stock units vest over four years with annual cliff vesting and are subject to the employees continuing service to the Company. For each restricted stock unit granted under the 1998 Plan, a share reserve ratio is applied for the purpose of determining the remaining number of shares reserved for future grants under the plan. The share reserve ratio is 1:1 for each restricted stock unit granted, and an equivalent of 1 share will be deducted from the share reserve for each restricted stock unit issued. Likewise, each forfeited restricted stock unit increases the number of shares available for issuance by the applicable rate at the time of forfeiture. As of September 30, 2012, a total of 873,750 RSUs were issued and granted to the Company s senior management and non-employee Board of Directors.

In February 2011, the Board of Directors approved the acceleration of 333,333 stock options that had been previously granted to a senior executive who had passed away in December 2010. In addition, the exercise terms for these accelerated options along with 129,167 of vested options were extended from one to two years. As such, the full fair value of these options was measured as of the modification date and fully expensed at that time. Since there was no longer a performance obligation at the date of modification associated with these options, an alternate classification and accounting under GAAP was required. As a result, these accelerated options were to be measured and classified as liability rather than equity. Accordingly, at the end of each quarter, we calculate the revised fair value of these options and recognize any corresponding gain or loss to income. We will continue this accounting treatment until these options are fully exercised. In the quarter ending September 30, 2012, 212,500 options were exercised resulting in approximately $448,000 in accrued liabilities reduction. Of these share-based awards, approximately $16,000 was a credit to compensation expense in the third quarter of fiscal year 2012 and approximately $94,000 was classified as other accrued liabilities on the Company s Consolidated Balance Sheet at September 30, 2012.

Net Income Per Share

The Company computes basic net income per share using the weighted-average number of common shares outstanding during the period, less weighted average shares subject to repurchase. The Company computes diluted net income per share using the weighted-average number of common shares and dilutive share-based awards during the period determined by using the treasury stock method.

The table below reconciles the weighted-average common shares used to calculate basic net income per share with the weighted-average common shares used to calculate diluted net income per share (in thousands):

Table of Contents

	Three Months Ended September 30,		Nine months Ended September 30,	
	2012	2011	2012	2011
Weighted-average common shares outstanding	49,207	48,058	49,156	46,873
Weighted-average dilutive common equivalent shares under the treasury stock method	3,587	4,227	3,638	4,351
Weighted-average common shares used in computing diluted net income per share	52,794	52,285	52,794	51,224

Under the treasury stock method, stock options with exercise prices exceeding the average share price of the Company s common stock during the applicable period are excluded from the diluted earnings per share computation. The weighted-average number of shares excluded from the calculation of diluted net income was 2,222,368 and 2,151,624 in the three and nine months ended September 30, 2012, respectively. The weighted-average number of restricted stock unit shares excluded from the calculation of diluted net income was 216,200 and 113,349 in the three and nine months ended September 30, 2012, respectively. The weighted-average number of shares excluded from the calculation of diluted net income was 3,516,394 and 4,105,173 in the three and nine months ended September 30, 2011, respectively. No restricted stock units were excluded from the diluted earnings per share computation as they were all dilutive for the three and nine months ended September 30, 2011. Such stock options, had they been dilutive, would have been included in the computation of diluted net income per share.

The weighted average exercise price of excluded stock options was $6.41 and $6.34 for the three and nine months ended September 30, 2012, respectively. The weighted average exercise price of excluded stock options was $5.89 and $5.87 for the three and nine months ended September 30, 2011, respectively.

Income Taxes

The Company calculates its interim income tax provision in accordance with Financial Accounting Standards Board (FASB) authoritative guidance on income taxes and obligations for uncertain tax positions. At the end of each interim period, the Company estimates the annual effective tax rate and applies that rate to its ordinary quarterly earnings. The tax expense or benefit related to significant, unusual, or extraordinary items that will be separately reported or reported net of their related tax effect, is recognized in the interim period in which those items occur. Additionally, the effect of changes in enacted tax laws, tax rates, or tax status is recognized in the interim period in which the change occurs.

The computation of the annual estimated effective tax rate at each interim period requires certain estimates and significant judgment including, but not limited to, the expected operating income for the year, projections of the proportion of income earned and taxed in foreign jurisdictions, permanent and temporary differences, and the likelihood of recovering deferred tax assets generated in the current year. The accounting estimates used to compute the provision for income taxes may change as new events occur, more experience is acquired, additional information is obtained or as the tax environment changes. Although we believe our assumptions, judgments and estimates are reasonable, changes in tax laws or our interpretation of tax laws and the resolution of any tax audits could significantly impact the amounts provided for income taxes in our consolidated financial statements.

A valuation allowance is required, if based on the weight of available evidence it is more likely than not that some portion or all of the recorded deferred tax assets will not be realized in future periods. In evaluating our ability to recover our deferred tax assets, in full or in part, we consider all available positive and negative evidence, including our past operating results, the existence of cumulative losses in the most recent years and our forecast of future taxable income on a jurisdiction by jurisdiction basis. In determining future taxable income, we are responsible for assumptions made, including the amount of state, federal and international pre-tax operating income, the reversal of temporary differences and the implementation of feasible and prudent tax planning strategies. These assumptions require significant judgment about the forecasts of future taxable income and are consistent with the plans and estimates we are using to manage the underlying businesses.

We continue to believe there is sufficient evidence to support the utilization of certain deferred tax assets. If sufficient positive evidence exists and it is more likely than not that the benefit will be realized with respect to the remaining deferred tax assets, we will release the valuation allowance. This adjustment to the valuation allowance would decrease tax expense. Likewise, if there is a reduction in the projection of future U.S. and foreign income, we may need to increase the valuation allowance. Any increase in the valuation allowance would increase tax expense in the period such a determination was made.

We did not recognize certain tax benefits from uncertain tax positions within the provision for income taxes. The Company only recognizes the tax benefit from an uncertain tax position if it is more likely than not that the tax position, based on its technical merits, will be sustained upon examination by the taxing authorities. The tax benefits recognized in the financial statements from such positions are then measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. Due to uncertainties in any tax audit outcome, our estimates of the ultimate settlement of our unrecognized tax positions may change and the actual tax benefits may differ significantly from the estimates.

Table of Contents

Sales Taxes

The Company presents its revenues net of sales tax in its Consolidated Statements of Income.

Recent Accounting Pronouncements

In July 2012, the FASB issued guidance regarding indefinite-lived intangibles impairment tests. The revised standard allows an entity the option to first assess qualitatively whether it is more likely than not that an indefinite-lived intangible asset is impaired, thus necessitating that it perform the quantitative impairment test. An entity is not required to calculate the fair value of an indefinite-lived intangible asset and perform the quantitative impairment test unless the entity determined that it is more likely than not that the asset is impaired. The new guidance will be effective in the first quarter of fiscal 2013 and early adoption is permitted. The Company does not believe the adoption of the guidance will have a material impact on its consolidated financial statements.

2. Investment in Actuate Japan

Noncontrolling (minority) Interest As of September 30, 2012, Actuate owns 100% of the outstanding voting stock of Actuate Japan Company Ltd. (Actuate Japan). The minority shareholder of Actuate Japan had a non-expiring option to put its equity interest (non-controlling interest) in Actuate Japan to the Company and the Company had the option to call the Non-controlling interest. In the fourth quarter of fiscal 2011, the minority shareholder of Actuate Japan notified the Company that it wished to exercise its rights to put its 12% equity interest in Actuate Japan. This minority shareholder exercised its right on December 28, 2011 resulting in a payment of approximately $594,000 for this interest. As a result of this payment, noncontrolling interest in Actuate Japan was reduced to zero at December 31, 2011. The difference between the adjustment to the noncontrolling interest and the fair value of the consideration paid totaling approximately $99,000 was reported as increase to additional paid in capital in the Company s Consolidated Balance Sheet on December 31, 2011.

Prior to this exercise by the minority shareholder, the Company measured and disclosed the redeemable non-controlling interest in accordance with the accounting guidance for noncontrolling interests in subsidiaries as issued by the FASB at the calculated redemption value of the put option embedded in the non-controlling interest.

3. Fair Value Measurements of Financial Assets and Liabilities

The Company adheres to the FASB s authoritative guidance related to the fair value measurements of assets and liabilities. Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. For certain of our financial instruments, including cash and cash equivalents, short-term investments, accounts receivable, accounts payable, and other current liabilities the carrying amounts approximate their fair value due to the relatively short maturity of these balances.

The Company has assets that are valued in accordance with the provisions of the authoritative guidance that addresses fair value measurements. This guidance establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. The hierarchy is broken down into three levels based on the reliability of inputs as follows:

Level 1 Valuations based on quoted prices in active markets for identical assets that the Company has the ability to access.

Level 2 Valuations based on inputs on other than quoted prices included within level 1, for which all significant inputs are observable, either directly or indirectly.

Level 3 Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

Table of Contents

Assets Measured at Fair Value on a Recurring Basis

The following table represents information about the Company s investments measured at fair value (in thousands):

	Fair value of investments as of September 30, 2012			
	Total	Quoted Prices In Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market funds (1)	$ 5,874	$ 5,874	$	$
Term deposits (1)	12,850	12,850		
Commercial paper (2)	6,095		6,095	
Corporate bonds (2)	27,052		27,052	
Federal and municipal obligations (2)	2,000		2,000	
	$ 53,871	$ 18,724	$ 35,147	$

	Fair value of investments as of December 31, 2011			
	Total	Quoted Prices In Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market funds (1)	$ 6,082	$ 6,082	$	$
Term deposits (1)				