# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

# FORM 8-K

# **CURRENT REPORT**

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report: April 30, 2013

Commission file number 1-10948

# **OFFICE DEPOT, INC.**

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)

6600 North Military Trail, Boca Raton, FL (Address of principal executive offices) 59-2663954 (I.R.S. Employer Identification No.)

> 33496 (Zip Code)

(561) 438-4800 (Registrant's telephone number, including area code)

Former name or former address, if changed since last report: N/A

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:

□ 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)

Dere-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 8.01 OTHER EVENTS

During the first quarter of 2013, Office Depot, Inc. (the "Company") modified its measure of business segment operating income for management reporting purposes to allocate to the North American Retail Division, North American Business Solutions Division and International Division (the "Divisions") additional General and administrative and other expenses, as well as to allocate to the Divisions additional assets, capital expenditures and related depreciation expense. No changes have been made to the composition of these reportable segments. Additionally, the Company changed its accounting principle of presenting shipping and handling expenses in Operating and selling expenses to a preferable accounting principle of presenting such expenses in Costs of goods sold and occupancy costs. The Company considers this presentation preferable because it includes costs associated with revenues in the calculation of gross profit and provides better comparability to industry peers. Prior period results have been reclassified to conform to the current period presentation for both the change in accounting principle and the change in measurement of Division operating income (loss).

The Company is filing this Current Report on Form 8-K to update its Annual Report on Form 10-K for the fiscal year ended December 29, 2012 filed with the Securities and Exchange Commission (the "SEC") on February 20, 2013 (the "2012 Form 10-K"), to reflect the modified Division operating income (loss) solely to the extent this information is impacted by the revised business segment expense allocation and present the revised Consolidated Statement of Operations resulting from the change in presentation of shipping and handling expenses. Neither the change in accounting principle, nor the change in Division operating income (loss), Net earnings (loss), or Earnings (loss) per share for the respective periods.

The following Notes to the Consolidated Financial Statements, in Item 15 (a) 1, Part IV of the 2012 Form 10-K have been retrospectively adjusted from the previous presentation:

- Note A: Summary of Significant Accounting Policies
- Note B: Severance and Facility Closure Costs
- Note O: Segment Information
- Note R: Quarterly Financial Data (Unaudited)

Similarly, "Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" has been retrospectively adjusted to conform to the current presentation. Except as specifically noted in the filing, this Current Report on Form 8-K does not reflect events or developments that occurred after February 20, 2013, and does not modify or update the disclosures in any significant way other than as described above and set forth in the exhibits hereto. Without limiting the foregoing, this filing does not purport to update or amend the information contained in 2012 Form 10-K for any information, uncertainties, transactions, risks, events or trends occurring, or known to management. More current information is contained in the Company's Form 10-Q for the three months ended March 30, 2013 and other filings with the SEC. The information in this Current Report on Form 8-K should be read in conjunction with the 2012 Form 10-K filed by the Company with the SEC on February 20, 2013, subsequently amended as to Part III on April 26, 2013. Revisions to the 2012 Form 10-K included in this Current Report on Form 8-K as noted above supersede the corresponding portions of the 2012 Form 10-K.

#### ITEM 9.01. FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits
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- 23.1 Consent of Independent Registered Public Accounting Firm
- 99.1 Revised Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, from the 2012 Form 10-K

99.2 Revised consolidated financial statements and notes to the consolidated financial statements included in Part IV, Item 15. (a) 1. Exhibits and Financial Statement Schedules, from the 2012 Form 10-K

- (101.INS) XBRL Instance Document
- (101.SCH) XBRL Taxonomy Extension Schema Document
- (101.CAL) XBRL Taxonomy Extension Calculation Linkbase Document
- (101.DEF) XBRL Taxonomy Extension Definition Linkbase Document
- (101.LAB) XBRL Taxonomy Extension Label Linkbase Document
- (101.PRE) XBRL Taxonomy Extension Presentation Linkbase Document

## SIGNATURES

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.

Date: April 30, 2013

# **OFFICE DEPOT, INC.**

By: /s/ Elisa D. Garcia C.

Elisa D. Garcia C. Executive Vice President, General Counsel and Secretary

#### CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement No. 333-45591, No. 333-59603, No. 333-63507, No. 333-68081, No. 333-41060, No. 333-80123, No. 333-90305, No. 333-123527, No. 333-144936, and No. 333-177496 on Form S-8 of our report dated February 20, 2013 and April 30, 2013 as to the effects of (i) the change in accounting principle described in Note A, and (ii) changes in reportable segment presentation described in Note A, Note B, and Note O, relating to the consolidated balance sheets of Office Depot, Inc. as of December 29, 2012 and December 31, 2011, and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows for each of the three fiscal years in the period ended December 29, 2012 (which report expresses an unqualified opinion and includes an explanatory paragraph relating to the effects of the change in accounting principle and changes in reportable segment presentation) appearing in this Current Report on Form 8-K of Office Depot, Inc. dated April 30, 2013.

/s/ DELOITTE & TOUCHE LLP Certified Public Accountants

Boca Raton, Florida April 30, 2013

#### PART II

#### Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

#### **RESULTS OF OPERATIONS**

## **OVERVIEW**

Our business is comprised of three segments. The North American Retail Division includes our retail stores in the U.S. which offer office supplies and services, computers and business machines and related supplies, and office furniture. Most stores also have a copy and print center offering printing, reproduction, mailing and shipping. The North American Business Solutions Division sells office supply products and services in the U.S. and Canada directly to businesses through catalogs, Internet web sites and a dedicated sales force. Our International Division sells office products and services through catalogs, Internet web sites, a dedicated sales force and retail stores in Europe and Asia.

During the first quarter of 2013, Office Depot, Inc. (the "Company") modified its measure of business segment operating income for management reporting purposes to allocate to the North American Retail Division, North American Business Solutions Division and International Division additional General and administrative and other expenses, as well as to allocate to the Divisions additional assets, capital expenditures and related depreciation expense. No changes have been made to the composition of these reportable segments. Additionally, the Company changed its accounting principle of presenting shipping and handling expenses in Operating and selling expenses (previously Store and warehouse operating and selling expenses) to a preferable accounting principle of presenting such expenses in Costs of goods sold and occupancy costs. The Company considers this presentation preferable because it includes costs associated with revenues in the calculation of gross profit and provides better comparability to industry peers. Prior period results have been reclassified to conform to the current period presentation for both the change in accounting principle and the change in measurement of Division operating income (loss). Refer to Note O in Notes to the Consolidated Financial Statements for additional segment information. Neither the change in accounting principle, nor the change in Division operating income (loss), Net earnings (loss), or Earnings (loss) per share for the respective periods.

Our fiscal year results are based on a 52- or 53-week retail calendar ending on the last Saturday in December. Fiscal year 2011 is based on 53 weeks, with a 14week fourth quarter. Fiscal years 2012 and 2010 include 52 weeks. Our comparable store sales relate to stores that have been open for at least one year. Stores are removed from the comparable sales calculation during remodeling and if significantly downsized. A summary of factors important to understanding our results for 2012 is provided below. The comparisons to prior years are discussed in the narrative that follows this overview.

- Total Company sales were \$10.7 billion in 2012, down 7% compared to 2011. The 53<sup>rd</sup> week added approximately \$140 million of sales in 2011. Total Company sales decreased 1% in 2011 compared to 2010.
- Sales for 2012 compared to 2011 declined 8% in the North American Retail Division and 1% in the North American Business Solutions Division.
   Comparable store sales in the North American Retail Division decreased 5% in 2012. International Division sales decreased 10% in U.S. dollars and 5% in constant currencies.
- Gross margin for 2012 improved approximately 20 basis points compared to 2011, following a 110 basis point increase from 2010. The increase in 2012 primarily reflects improvement from reduced promotional activity, lower property costs and changes in the mix of sales channels and products sold.
- We recognized charges of approximately \$56 million in 2012, primarily related to restructuring-related activity in the International Division and restructuring and process improvement actions in North America Charges recognized in 2011 and 2010 totaled approximately \$58 million and \$87 million, respectively.

- Non-cash asset impairment charges of \$139 million were recorded in 2012, with \$123 million recognized in the North American Retail Division and \$15 million recognized in the International Division. Refer to the Retail Strategy discussion below for additional information.
- We also settled a dispute related to a 2003 acquisition which resulted in a gain of \$68 million being recognized in 2012 as Recovery of purchase price. A related expense of \$5 million was reported in General and administrative expenses. Cash received from this settlement was contributed to the acquired pension plan, resulting in the plan being in a net funded position of approximately \$8 million at December 29, 2012.
- The effective tax rate for 2012 was negative 2%, reflecting the impact of valuation allowances in the U.S. and certain international jurisdictions, as well as
  the non-taxable recovery of purchase price and a benefit recognized from an approved tax loss carryback. Tax and related interest benefits of approximately
  \$123 million were recognized in 2011 from the reversal of uncertain tax position accruals and the release of valuation allowances. Because of the valuation
  allowances, the Company continues to experience significant effective tax rate volatility within the year and across years.
- At the end of 2012, we had \$670.8 million in cash and cash equivalents and \$699.4 million available on our asset based credit facility. Cash flow from operating activities was \$179.3 million for 2012.

#### **OPERATING RESULTS**

Discussion of additional income and expense items, including material charges and credits and changes in interest and taxes follows our review of segment results.

#### NORTH AMERICAN RETAIL DIVISION

(In millions)	2012	2011	2010
Sales	\$4,457.8	\$4,870.2	\$4,962.8
% change	(8)%	(2)%	(3)%
Division operating income (loss)	\$ (101.9)	\$ 27.5	\$ 31.1
% of sales	(2.3)%	0.6%	0.6%

Sales in our North American Retail Division decreased 8% in 2012, 2% in 2011 and 3% in 2010. Fiscal year 2011 included a 53<sup>rd</sup> week based on our retail calendar, compared to 52 weeks in 2012 and 2010. This additional week added approximately \$78 million of sales in fiscal year 2011. The decline in total sales in 2012 and 2011 reflects the closing of 23 and 25 stores, respectively. Comparable store sales in 2012 from the 1,079 stores that were open for more than one year decreased 5%. Comparable store sales in 2011 from the 1,107 stores that were open for more than one year decreased 2%, with the fourth quarter down 5% compared to the prior year. Transaction counts were lower in both 2012 and 2011, consistent with the comparable store sales declines. Sales in Copy and Print Depot increased in both 2012 and 2011, while sales of technology products, technology peripheral items, furniture and some office supplies declined in both periods. Our decision to reduce promotions in select categories contributed to lower sales in both 2012 and 2011.

The North American Retail Division reported operating loss of \$102 million in 2012, compared to operating income of \$28 million in 2011 and \$31 million in 2010. Division operating loss in 2012 included \$123 million of asset impairment charges, compared to \$11 million in 2011 and \$2 million in 2010. Additional information on the 2012 impairment charge is provided in the Retail Strategy discussion below. Division operating loss for 2012 included \$3 million of severance and other charges, while 2011 included \$14 million of charges associated primarily with the closure of stores in Canada. Division operating income in 2010 included \$25 million of charges, primarily related to the abandonment of a software application that was intended to provide services to both the North American Retail and North American Business Solutions Divisions.

Gross margins increased in both 2012 and 2011 from lower promotional activity and a change in the mix of sales away from technology products, as well as continuing benefits from lower occupancy costs, partially offset by higher allocated supply chain costs. Operating expenses in 2012 included higher allocated support costs, partially offset by lower Division payroll and variable pay. Operating expenses in 2011 included higher variable based pay and incremental costs incurred to drive increased customer focused selling activities. These costs were offset by a positive contribution from the 53<sup>rd</sup> week in 2011, decreased advertising expenses and other favorable items including benefits recognized from changes to our private label credit card program. Division operating income (loss) in all periods was negatively affected by the impact our sales volume decline had on gross profit and operating expenses (the "flow through" impact).

At the end of 2012, we operated 1,112 retail stores in the U.S. We opened 4 new stores during 2012 and 9 stores during 2011. We closed 23 stores in North America during 2012. We closed 25 stores in North America during 2011, including the 12 stores in Canada.

#### Retail Strategy

As consumers have shifted their buying patterns, we have been developing new store formats to satisfy changing customer needs and shopping behavior. We now have almost 80 stores in small- to mid-sized store formats. The inventory selections in these stores are the higher-volume items that customers seek and the stores provide for an expanded services offering. At the stores, customers also have the ability to order our inventory products from our web site. We continue to make modifications to these prototypes.

During 2012, the North American Retail Division conducted a review of each store location and developed a revised retail strategy (the "NA Retail Strategy"). Approximately 40% of the stores in our portfolio have leases that will be at an optional renewal period within the next three years and 65% within the next five years. Each location was reviewed for a decision to retain as currently configured and located, downsize to either small or mid-size format, relocate, remodel, or close at the end of the base lease term.

The result of this analysis is a plan to downsize approximately 275 locations to small-format stores at the end of their current lease term over the next three years and an additional 165 locations over the following two years. Approximately 60 locations will be down-sized or relocated to the mid-sized format over three years and another 25 over the following two years. We anticipate closing approximately 50 stores as their base lease period ends. The remaining stores in the portfolio are anticipated to remain as configured, be remodeled or have base lease periods more than five years in the future. Future market conditions may impact any of the decisions used in this analysis. Downsizing and closing stores likely will result in lower reported sales in future periods. Downsized locations will be removed from the comparable store sales calculation until the one year comparable period is reached at the new store size. The NA Retail Strategy includes anticipated capital expenditures of approximately \$60 million per year for the next five years.

These decisions to modify the store portfolio have impacted our store impairment analysis which is prepared at an individual store level. The cash flow time horizon for stores expected to be closed, relocated or downsized has been reduced to the base lease period, eliminating renewal option periods from the calculation, where applicable. The current outlook on sales is a decline of 4% in the first year. The projected sales continue to be negative for the second year, but are on an improving trend. This trend reflects our view that a portion of the sales previously made in our retail locations may be migrating to our online and other channels, but because those sales are not fulfilled out of the retail store, they are not considered cash flow sources in this impairment analysis. Gross margin assumptions have been held constant at our current actual levels and we have assumed operating costs consistent with recent actual results and planned activities.

In addition to the impact of our real estate strategy on asset impairments, certain remaining assets will now be depreciated over a shorter period of time. We anticipate incremental accelerated depreciation of approximately \$8 million and \$4 million in 2013 and 2014, respectively. Because the NA Retail Strategy is based on taking actions at the end of the location's lease term, we do not expect significant closed store lease accruals. However, we do anticipate volatility in results in future periods as certain accounting criteria are met. For example, certain locations with some level of impairment are facilities accounted for as capital leases. We no longer expect to stay in the location beyond the base lease period but accounting rules limit the reconsideration of the capital lease term in periods prior to a formal lease modification. This current period impairment charge related to these leased assets will be followed by a credit to income in a future period from release of the accrued capital lease obligations when the option periods are not exercised and the leases are terminated. Additionally, operating leases with scheduled rent increases result in higher expense and establishment of a deferred rent credit in early years that is reversed in later years, resulting in a straight-line rent expense. If a location closes or relocates at the end of the base lease term, this credit will be released to income at that time. Deferred rent credits for renegotiated lease arrangements with the existing landlord will be amortized over the new lease period.

To the extent that forward-looking sales and operating assumptions in the current portfolio are not achieved and are subsequently reduced, or more stores are closed, additional impairment charges may result. Of the 380 stores with some level of impairment recognized in 2012, approximately 130 have remaining asset values of approximately \$35 million that will be depreciated over their shortened estimated useful lives. These and other lower-performing locations are particularly sensitive to changes in projected cash flows over this period and additional impairment is possible in future periods if results are below projections. Store performance lower than current projections may also result in additional 2013 quarterly asset impairment charges. However, at the end of 2012, the impairment analysis reflects the company's best estimate of future performance, including the intended future use of the company's retail stores.

#### NORTH AMERICAN BUSINESS SOLUTIONS DIVISION

(In millions)	2012	2011	2010
Sales	\$3,214.9	\$3,262.0	\$3,290.4
% change	(1)%	(1)%	(6)%
Division operating income (loss)	\$ 104.8	\$ 73.4	\$ (16.8)
% of sales	3.3%	2.3%	(0.5)%

Sales in our North American Business Solutions Division decreased 1% in 2012, 1% in 2011 and 6% in 2010. The 53<sup>rd</sup> week added approximately \$34 million of sales to the Division in 2011. Total sales in both the direct and contract channels decreased slightly in 2012 after considering the 53<sup>rd</sup> week in 2011. Direct channel sales increased in 2011, while contract sales were lower compared to 2010. Sales to large and global accounts increased in both 2012 and 2011. However, sales to state and local government accounts decreased in both periods reflecting continuation of budgetary pressures. Sales to small-to medium-sized businesses decreased in 2012 and increased in 2011, reflecting the 53<sup>rd</sup> week of sales in 2011. During 2011, through alternative non-exclusive purchasing arrangements, the Division retained approximately 87% of the revenue from customers formerly associated with a legacy public sector purchasing cooperative. This retention rate is inclusive of declines due to public sector spending and budget constraints, which impacted these customers as well as our other public sector customers. Sales in the contract channel, other than to customers buying under these purchasing arrangements, were positive for 2011. On a product category basis, in 2012, copy and print, cleaning and breakroom comparable sales increased, while sales in the supplies category decreased. Furniture sales decreased slightly. For 2011, sales of cleaning and break room products and certain office supplies increased while ink and toner, furniture, paper and other office supply categories decreased.

Division operating income totaled \$105 million in 2012, \$73 million in 2011, and operating loss of \$17 million in 2010. Division operating income in 2012 and 2011 included charges related to severance and other actions taken to improve efficiency of \$5 million in each of the two years. Division operating loss in 2010 included \$27 million of allocated charges, primarily related to the abandonment of a software application that was intended to provide services to both the North American Retail and North American Business Solutions Divisions.

The 2012 increase in Division operating income reflects gross margin benefits from reduced promotions and margin improvement initiatives, as well as lower supply chain, advertising and other costs, partially offset by certain severance and process improvement costs. The increase in 2011 reflects the impact of a change in the mix of product sales to the direct channel, lower operating expenses, a change of mix of customers in the contract channel, and positive impacts from our margin improvement initiatives. Lower selling, distribution and advertising expenses were incurred in 2011 compared to 2010. Many of these operating expense reductions reflect initiatives put in place in prior periods to improve efficiency and productivity. Also, fiscal year 2011 included benefits discrete to the period from removing recourse provisions and changing terms and conditions in the Office Depot private label credit card program and adjustments relating to customer incentives. The impact of the 53<sup>rd</sup> week was relatively neutral to the Division's overall operating income for 2011.

#### INTERNATIONAL DIVISION

(In millions)	2012	2011	2010
Sales	\$3,022.9	\$3,357.4	\$3,379.8
% change	(10)%	(1)%	(5)%
% change in constant currency sales	(5)%	(5)%	(2)%
Division operating income (loss)	\$ (20.3)	\$ 33.0	\$ 51.4
% of sales	(0.7)%	1.0%	1.5%

Sales in our International Division in U.S. dollars decreased 10% in 2012, 1% in 2011 and 5% in 2010. Constant currency sales decreased 5% in 2012, 5% in 2011 and 2% in 2010. The 53<sup>rd</sup> week added approximately \$28 million to total Division sales in 2011. The comparison of sales in 2011 to 2010 is also impacted by the sale and deconsolidation of operations in Israel and Japan in the fourth quarter of 2010 and the acquisition of operations in Sweden in the first quarter of 2011. Contract channel sales in constant currencies decreased 2% in 2012 and increased 3% in 2011. The 2012 decrease reflects competitive pressures and soft economic conditions in Europe. The 2011 increase reflects growth in field sales as a result of added staff, as well an acquisition in Sweden. Constant currency sales in the direct channel declined 10% in 2012 and 6% in 2011. Addressing this trend in the direct channel sales has been a point of focus throughout 2012 and improvements have been seen in both the third and fourth quarters of the year. We will continue to dedicate resources to improving sales in this channel.

Division operating loss totaled \$20 million in 2012, compared to operating income of \$33 million in 2011, and \$51 million in 2010. Division operating income (loss) for 2012, 2011 and 2010 include charges of \$57 million, \$33 million, and \$23 million, respectively. The 2012 charges relate to restructuring-related activities, as well as \$14 million of asset impairments. As a result of slowing economic conditions in Sweden and certain integration difficulties, in the third quarter of 2012, we re-evaluated remaining balances of acquisition-related intangible assets. Based on this analysis, which included a decline in projected sales and profitability for this acquired business, we concluded that cash flows would be insufficient to recover the assets over their expected use period. The 2011 charges primarily related to severance and other costs associated with facility closures and streamlining processes. The 2010 charges resulted from the sale of operating subsidiaries in Israel and Japan, as well as facility closure and severance costs associated with the consolidation of activities in Europe.

The decreases in Division operating income (loss) in 2012, 2011 and 2010 were impacted by the flow through impact of lower sales levels. Gross margin decreased in 2012 and increased in 2011. The decrease in 2012 primarily reflects a shift in the mix of sales away from the direct channel. The increase in 2011 results from acquisition and disposition activity and a change in the mix of direct and contract sales, product costs not passed along to customers, partially offset by lower occupancy costs. After considering the charges discussed above, Operating expenses decreased across the Division in 2012, reflecting benefits from restructuring activities initiated in prior periods.

For U.S. reporting, the International Division's sales are translated into U.S. dollars at average exchange rates experienced during the year. The Division's reported sales were negatively impacted by approximately \$160 million in 2012 and positively impacted by \$147 million in 2011 from changes in foreign currency exchange rates. Internally, we analyze our international operations in terms of local currency performance to allow focus on operating trends and results.

#### CORPORATE AND OTHER

#### Asset Impairments, Severance, Other Charges and Credits

In recent years, we have taken actions to adapt to changing and increasingly competitive conditions experienced in the markets in which the Company serves. These actions include closing stores and distribution centers ("DCs"), consolidating functional activities, disposing of businesses and assets, and taking actions to improve process efficiencies. Additionally, during 2012, we recognized significant asset impairment charges in the North American Retail Division and International Division and recognized a gain from the resolution of a dispute related to a 2003 acquisition.

The impact of asset impairments, severance and other charges and credits on Operating income (loss) recognized by line item presentation in the Consolidated Statements of Operations are as follows.

(In millions)	2012	2011	2010
Cost of goods sold and occupancy costs	<u>\$ —</u>	\$ 2	<u>2010</u> \$—
Operating and selling expenses	22	25	14
Recovery of purchase price	(68)		
Asset impairments	139	—	51
General and administrative expenses	34	31	22
Total charges and credits impact on Operating income (loss)	\$ 127	\$ 58	\$ 87

The 2012 charges and credits relate to \$68.3 million recovery of purchase price, \$138.5 million asset impairments, restructuring-related activity, store closures, and process improvement actions at the corporate level. Non-cash asset impairment charges of \$138.5 million includes \$123.4 million in the North American Retail Division related to the NA Retail Strategy and under-performing stores and \$15.1 million recognized in the International Division, as discussed above. Refer to Note I of the Consolidated Financial Statements for additional information.

#### Recovery of Purchase Price

The sale and purchase agreement ("SPA") associated with a 2003 European acquisition included a provision whereby the seller was required to pay an amount to the company if a specified acquired pension plan was calculated to be underfunded based on 2008 plan data. The amount calculated by the plan's actuary was disputed by the seller but upheld by an independent arbitrator. The seller continued to dispute the award until both parties reached a settlement agreement in January 2012 and the seller paid approximately GBP 37.7 million to the company, including GBP 5.5 million placed in escrow in 2011. Under the terms of the SPA, and in agreement with the pension plan trustees, the company contributed the cash received, net of certain fees, to the pension plan. This contribution caused the plan to go from a net liability position at the end of 2011 to a net asset position of approximately \$8 million at December 29, 2012. Because goodwill associated with this transaction was fully impaired in 2008, this recovery is recognized in the 2012 statement of operations. Also, consistent with the presentation in 2008, this recovery is reported at the corporate level and not included in the determination of International Division operating income.

The \$68.3 million Recovery of purchase price includes recognition of the cash received from the seller, certain fees incurred and reimbursed, as well as the release of an accrued liability as the settlement agreement releases any and all claims under the SPA. An additional expense of approximately \$5.2 million related to this arrangement is included in General and administrative expenses, resulting in a net increase in operating income for 2012 of \$63.1 million. The transaction is treated as a non-taxable return of purchase price for tax purposes.

The cash payment from the seller was received by a subsidiary of the company with the Euro as its functional currency and the pension plan funding was made by a subsidiary with Pound Sterling as its functional currency, resulting in certain translation differences between amounts reflected in the Consolidated Statements of Operations and the Consolidated Statements of Cash Flows for 2012. The receipt of cash from the seller is presented as a source of cash in investing activities. The contribution of cash to the pension plan is presented as a use of cash in operating activities. Refer to Note H of the Consolidated Financial Statements for additional information.

#### Charges in 2011 and 2010

The 2011 charges primarily relate to the consolidation and elimination of functions in Europe, the closure of stores in Canada and Company-wide process improvement initiatives. In the Consolidated Statements of Operations, for comparability to the 2012 presentation, we have reclassified \$11.4 million related to 2011 store level impairment to Asset impairments line, which was previously reported in Operating and selling expenses in the Consolidated Statements of Operations. However, those asset impairment charges have not been reflected in the table above.

The charges in 2010 include \$51 million for the abandonment of a certain software application, \$23 million for losses on the disposal of operating entities in Israel and Japan, as well as \$13 million of compensation-related costs following the departure of the Company's former CEO.

The following table indicates the amount of charges and credits included in the determination of Division operating income and recognized at the corporate level:

(In millions)	2012	2011	2010
North American Retail Division	\$126	\$ 14	2010 \$ 25
North America Business Solutions Division	5	5	27
International Division	57	33	23
Corporate level, recovery of purchase price	(68)	—	_
Corporate level, other	7	6	12
Total charges and credits impact on Operating income (loss)	\$127	\$ 58	\$ 87

#### **General and Administrative Expenses**

General and administrative expenses ("G&A") are included in the determination of Division operating income (loss) to the extent those costs are considered to be directly or closely related to segment activity and through allocation of support costs. Other companies may charge more or less G&A expenses and other costs to their segments, and our results therefore may not be comparable to similarly titled measures used by other companies. The remainder of the total G&A expenses are considered corporate expenses. A breakdown of G&A is provided in the following table:

(In millions)	2012	2011	2010
Division G&A	\$591.0	\$588.4	\$557.4
Corporate G&A	81.8	100.2	101.4
Total G&A	672.8	688.6	658.8
% of sales	6.3%	6.0%	5.7%

As noted above in "Asset Impairments, Severance, Other Charges and Credits", total G&A expenses include charges of \$34 million, \$31 million, and \$22 million in 2012, 2011, and 2010, respectively. Of these amounts, approximately \$27 million was included in Division G&A for 2012, \$26 million in 2011, and \$11 million in 2010. The remaining charges in each year were included in Corporate G&A and primarily related to severance and activities intended to increase efficiency. After considering these charges, Corporate G&A expenses decreased in 2012 from lower variable pay and lower unallocated support costs. Corporate G&A expenses increased in 2011 from higher variable based pay and the comparison to a favorable litigation settlement in 2010.

#### **Other Income and Expense**

<u>(In millions)</u> Interest income	<u>2012</u> \$ 2.2	2011 <b>\$</b> 1.2	$\frac{2010}{\$ 4.7}$
Interest expense	(68.9)	(33.2)	(58.5)
Loss on extinguishment of debt	(12.1)	—	—
Miscellaneous income, net	34.2	30.9	34.5

Interest expense was impacted by the reversal of accrued interest of \$32 million in 2011 and \$11 million in 2010 following settlements of uncertain tax positions. Our accounting policy is to present interest accruals and reversals on uncertain tax positions as a component of interest expense. Additionally, approximately \$2 million of interest income was recognized in 2010 from one of the tax settlements.

On March 15, 2012, we completed a cash tender offer to purchase up to \$250 million aggregate principal amount of 6.25% Senior Notes due 2013. The total consideration for each \$1,000.00 note surrendered was \$1,050.00. Additionally, tender fees and a proportionate amount of deferred debt issue costs and a deferred cash flow hedge gain were included in the measurement of the \$12.1 million extinguishment costs reported in the Consolidated Statement of Operations for 2012.

Our net miscellaneous income consists of our earnings of joint venture investments, gains and losses related to foreign exchange transactions, and investment results from our deferred compensation plan. We recognized earnings from our joint venture in Mexico, Office Depot de Mexico, of approximately \$32 million, \$34 million and \$31 million in 2012, 2011, and 2010, respectively. These results also were impacted by foreign currency and other gains and losses in all periods.

#### **Income Taxes**

(In millions)	2012	2011	2010
Income tax expense (benefit)	\$1.7	\$(63.1)	\$(10.5)
Effective income tax rate*	(2)%	(193)%	18%

\* Income taxes as a percentage of earnings (loss) before income taxes.

The negative 2% effective tax rate for 2012 results from recognizing tax expense in jurisdictions with pre-tax income while being precluded from recognizing deferred tax benefits on pre-tax losses in the U.S. and certain international jurisdictions that are subject to valuation allowances. Additionally, the pension settlement was a non-taxable transaction and the full year tax rate includes a net \$14 million tax benefit from an approved tax loss carryback. The effective rate also reflects the impact on deferred tax asset from a tax rate change in an international jurisdiction.

The effective tax rates for 2011 and 2010 reflect benefits from settlements of uncertain tax positions ("UTPs") and from the reversal of valuation allowances on deferred tax assets. The 2011 rate includes the reversal of \$81 million of UTP accruals following closure of tax audits and the expiration of the statute of limitations on previously open tax years. The 2010 effective rate includes the reversal of approximately \$30 million of UTP accruals. In addition, 2011 and 2010 include approximately \$9 million and \$10 million, respectively, of discrete benefits from the release of valuation allowances in certain European countries because of improved performance in those jurisdictions. Partially offsetting these tax benefits is income tax expense recognized for taxpaying entities. Because of significant valuation allowances that remain in other jurisdictions, deferred tax benefits are not recognized on certain loss generating entities. Within our international operations, statutory tax expense is generally lower compared to the aggregate U.S. federal and state income tax rates. This is further impacted by favorable tax ruling within our international operations.

The aggregate reversal of UTPs in 2010 was reduced by approximately \$7 million which was offset against other tax-related accounts and had no impact on earnings. The UTP reversals also resulted in a reversal of previously accrued interest expense of \$32 million in 2011 and \$11 million in 2010, as well as recognition of \$2 million of interest income in 2010. Our accounting policy is to include accrued interest on UTPs, and any related reversals, as a component of interest expense in the consolidated statement of operations.

Following the recognition of significant valuation allowances in 2009, we have regularly experienced substantial volatility in our effective tax rate for interim periods. Because deferred income tax benefits cannot be recognized in several jurisdictions, changes in the amount, mix and timing of projected pre-tax earnings in tax paying jurisdictions can have a significant impact on the annual expected tax rate which, applied against year-to-date results, can result in significant volatility in the overall effective tax rate. This interim and full year volatility is likely to continue in future periods until the valuation allowances can be released.

We have reached a tentative settlement with the U.S. Internal Revenue Service ("IRS") Appeals Division to close the previously-disclosed IRS deemed royalty assessment relating to 2009 and 2010 foreign operations. The settlement is subject to the Congressional Joint Committee on Taxation approval which is anticipated in 2013. The resolution of this deemed royalty assessment will close all known disputes relating to 2009 and 2010. However, pending this approval, the IRS has made a deemed royalty assessment of \$12 million (\$4.3 million tax-effected) relating to 2011 foreign operations. We disagree with this assessment and believe no UTP accrual is required at this time.

We file a U.S. federal income tax return and other income tax returns in various states and foreign jurisdictions. The U.S. federal tax returns for 2011 and 2012 are under review. Significant international tax jurisdictions include the U.K., the Netherlands, France and Germany. Generally, we are subject to routine examination for years 2008 and forward in these foreign jurisdictions. It is reasonably possible that some audits will close within the next twelve months which we do not believe would result in a change to our accrued uncertain tax positions.

Refer to Note F in the Notes to Consolidated Financial Statements for additional tax discussion.

#### LIQUIDITY AND CAPITAL RESOURCES

#### Liquidity

In 2011, the Company entered into a \$1.0 billion Amended and Restated Credit Agreement (the "Amended Credit Agreement") with a group of lenders, most of whom participated in the previously-existing \$1.25 billion Credit Agreement. The Amended Credit Agreement expires May 25, 2016 and was amended February 2012. Refer to Note E of the Consolidated Financial Statements for additional information.

At December 29, 2012, we had approximately \$670.8 million in cash and equivalents and another \$699.4 million available under the Amended Credit Agreement based on the December 2012 borrowing base certificate, for a total liquidity of approximately \$1.4 billion. Approximately \$184 million of cash and cash equivalents was held outside the United States and could result in additional tax expense if repatriated. We consider our resources adequate to satisfy our cash needs for at least the next twelve months.

At December 29, 2012, no amounts were drawn under the Amended Credit Agreement. The maximum month end amount outstanding during 2012 occurred in February at approximately \$13 million. There were letters of credit outstanding under the Amended Credit Agreement at the end of the year totaling approximately \$90 million. An additional \$0.2 million of letters of credit were outstanding under separate agreements. Average borrowings under the Amended Credit Agreement during 2012 were approximately \$4.3 million at an average interest rate of 2.6%. The maximum monthly average borrowings during 2012 occurred in February at approximately \$13.2 million.

We also had short-term borrowings of \$2.2 million at December 29, 2012 under various local currency credit facilities for our international subsidiaries that had an effective interest rate at the end of the year of approximately 5.8%. The maximum month end amount on these facilities occurred in July at approximately \$16.1 million and the maximum monthly average amount occurred in August at approximately \$15.8 million. The majority of these short-term borrowings represent outstanding balances on uncommitted lines of credit, which do not contain financial covenants.

The Company was in compliance with all applicable financial covenants at December 29, 2012.

Dividends on redeemable preferred stock are payable quarterly, and will be paid in-kind or in cash, only to the extent that the Company has funds legally available for such payment and a cash dividend is declared by the Company's Board of Directors. Dividends for the first three quarters of 2012 were paid-in kind. The dividend for the fourth quarter of 2012 totaled \$10.2 million and was paid in cash when due, in January 2013.

#### Cash Flows

Cash provided by (used in) our operating, investing and financing activities is summarized as follows:

(In millions)	2012	2011	2010
Operating activities	\$179.3	\$ 199.7	\$ 203.1
Investing activities	(29.7)	(157.2)	(191.5)
Financing activities	(55.2)	(98.6)	(30.9)

#### **Operating** Activities

We generated cash from operating activities of \$179 million in 2012, compared to \$200 million and \$203 million in 2011 and 2010, respectively. We recorded non-cash asset impairment charges of \$139 million, \$11 million, and \$51 million, in 2012, 2011 and 2010, respectively, as discussed above. In 2012, we recognized a credit in earnings as recovery from a business combination. The cash portion of this recovery is reclassified out of earnings and reflected as a source of cash in investing activities. That cash was required by the original purchase agreement to be contributed to the acquired pension plan. That pension funding of \$58 million during the first quarter of 2012 is presented as a use of cash in operating activities.



Changes in net working capital for the year-to-date 2012 resulted in a \$35 million use of cash compared to \$180 million use in the same period last year. The 2011 caption includes the \$66 million and \$32 million non-cash accrual reversals. The decrease in receivables, in the three years presented, reflects lower sales, improved collections, and certain changes in vendor purchase arrangements that impacted working capital requirements. Inventory balances were lower at the end of 2012 as a result of initiatives to better manage working capital. These sources of cash in 2012 were offset by decreases in trade accounts payable and accrued expenses. Working capital is influenced by a number of factors, including the aging of inventory and timing of vendor payments. The timing of payments is subject to variability during the year depending on a variety of factors, including the flow of goods, credit terms, timing of promotions, vendor production planning, new product introductions and working capital management. For our accounting policy on cash management, refer to Note A of the Consolidated Financial Statements.

During 2011, we received a \$25 million dividend from our joint venture in Mexico, Office Depot de Mexico. No dividends were received in 2012.

#### Investing Activities

Net cash used in investing activities was \$30 million in 2012, \$157 million in 2011, and \$192 million in 2010. We invested \$120 million, \$130 million and \$169 million in capital expenditures during 2012, 2011 and 2010, respectively. The 2012 capital expenditures relate to new stores and relocations, internal initiatives and various capital projects. The \$73 million of acquisition, net of cash acquired was for the acquisition of an entity in Sweden that occurred during the first quarter of 2011. During 2010, we used approximately \$11 million to complete an acquisition. In 2012, we recovered \$50 million from purchase price as discussed above and released \$9 million of cash placed in escrow in 2011 related to the same matter. Proceeds from disposition of assets and other amounted to \$32 million in 2012 compared to \$8 million in 2011 and \$35 million in 2010. Proceeds from the disposition of assets in 2012 included \$12 million from a sale and lease back of an International warehouse, \$10 million from sale of properties in North America, and \$9 million from cash proceeds related to a 2010 sale of one operating subsidiary in the International Division. Proceeds from the disposition of assets in 2010 included \$25 million from the sale of a data center and \$8 million from the sale of two operating subsidiaries in the International Division. Approximately \$47 million was placed in a restricted cash escrow account in 2010 and released in 2011 to fund the Swedish acquisition.

#### **Financing** Activities

Net cash used in financing activities totaled \$55 million, \$99 million and \$31 million in 2012, 2011 and 2010, respectively. In 2012, we completed the early settlement of a cash tender offer to purchase up to \$250 million aggregate principal amount of our outstanding 6.25% Senior Notes due 2013. We also issued \$250 million aggregate principal amount of 9.75% Senior Secured Notes due March 15, 2019. The tender activity resulted in a \$13 million cash loss on extinguishment of debt. Additionally, new issuance costs and costs related to the Amended Credit Agreement totaled \$8 million. Payments on other long and short-term borrowings for the period amounted to \$57 million. Proceeds from issuance of borrowings for the period amounted to \$22 million. The dividends on preferred stock were paid in kind during 2012.

The use of cash in 2011 included the cash dividends paid on our redeemable preferred stock of approximately \$37 million, repayments of long and short term borrowings of \$69 million, and \$10 million in fees related to the Amended Credit Agreement. The dividend on our redeemable preferred stock for the fourth quarter of 2011 was paid in-kind in January 2012. The sources of cash in 2011 included proceeds from issuance of borrowings of \$10 million, as well as an advance of \$9 million was received relating to a dispute associated with a prior year acquisition in Europe. A final settlement of this dispute was reached in January 2012; refer to Note H of the Consolidated Financial Statements for additional discussion.

The use of cash in 2010 resulted from the cash dividends paid on our redeemable preferred stock of approximately \$28 million and \$22 million to acquire certain noncontrolling interests. The 2010 period included short-term borrowings under our asset based credit facility and payments on long and short-term borrowings of \$30 million. We have evaluated, and expect to continue to evaluate, possible refinancing and other transactions. Such transactions may be material and may involve cash, the Company's securities or the assumption of additional indebtedness.

#### **Off-Balance Sheet Arrangements**

As of December 29, 2012, we had no off-balance sheet arrangements other than operating leases which are included in the table below.

#### **Contractual Obligations**

The following table summarizes our contractual cash obligations at December 29, 2012, and the effect such obligations are expected to have on liquidity and cash flow in future periods:

		Payments Due by Period			
(In millions)	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Contractual Obligations			<u> </u>	<u> </u>	
Long-term debt obligations <sup>(1)</sup>	\$ 595.8	\$ 187.3	\$ 54.2	\$ 53.3	\$ 301.0
Short-term borrowings and other <sup>(2)</sup>	2.2	2.2	—		—
Capital lease obligations <sup>(3)</sup>	341.7	35.5	70.2	57.6	178.4
Operating lease obligations <sup>(4)</sup>	2,151.7	467.1	725.8	425.7	533.1
Purchase obligations <sup>(5)</sup>	38.0	36.6	1.4		
Other liabilities <sup>(6)</sup>	10.2	10.2			
Total contractual cash obligations	\$3,139.6	\$ 738.9	\$ 851.6	\$ 536.6	\$1,012.5

<sup>(1)</sup> Long-term obligations consist primarily of expected payments (principal and interest) on our \$250 million 9.75% Senior Secured Notes and our \$150 million 6.25% Senior Notes. Our \$150 million 6.25% Senior Notes is due on August 2013.

<sup>(2)</sup> Short-term borrowings consist of amounts outstanding under credit facilities for certain of our international subsidiaries.

(3) The present value of these obligations are included on our Consolidated Balance Sheets. Refer to Note E of the Consolidated Financial Statements for additional information about our capital lease obligations.

<sup>(4)</sup> The operating lease obligations presented reflect future minimum lease payments due under the non-cancelable portions of our leases, as of December 29, 2012. Our operating lease obligations are described in Note G of the Consolidated Financial Statements. In the table above, sublease income operating lease obligations above have not been reduced by sublease income of \$48.3 million.

<sup>(5)</sup> Purchase obligations include all commitments to purchase goods or services of either a fixed or minimum quantity that are enforceable and legally binding on us that meet any of the following criteria: (1) they are non-cancelable, (2) we would incur a penalty if the agreement was cancelled, or (3) we must make specified minimum payments even if we do not take delivery of the contracted products or services. If the obligation is non-cancelable, the entire value of the contract is included in the table. If the obligation is cancelable, but we would incur a penalty if cancelled, the dollar amount of the penalty is included as a purchase obligation. If we can unilaterally terminate the agreement simply by providing a certain number of days notice or by paying a termination fee, we have included the amount of the termination fee or the amount that would be paid over the "notice period." As of December 29, 2012, purchase obligations include television, radio and newspaper advertising, telephone services, certain fixed assets and software licenses and service and maintenance contracts for information technology. Contracts that can be unilaterally terminated without a penalty have not been included.



<sup>(6)</sup> Other liabilities consist of dividends paid in January 2013 relating to the Redeemable Preferred Stock. Dividends payable in future quarterly periods may be paid in-kind or in cash and are not determinable as of December 29, 2012. Refer to Note F of the Consolidated Financial Statements for additional information.

Additionally, our Consolidated Balance Sheet as of December 29, 2012 includes \$431.5 million classified as Deferred income taxes and other long-term liabilities. This caption primarily consists of net long-term deferred income taxes, deferred lease credits, liabilities under our deferred compensation plans, and accruals for uncertain tax positions. These liabilities have been excluded from the above table as the timing and/or the amount of any cash payment is uncertain. Refer to Note F of the Consolidated Financial Statements for additional information regarding our deferred tax positions and accruals for uncertain tax positions and accruals for uncertain tax positions and Note H for a discussion of our employee benefit plans.

In addition to the above, we have outstanding letters of credit totaling \$0.2 million at December 29, 2012.

#### CRITICAL ACCOUNTING POLICIES

Our Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies can be found in Note A of the Consolidated Financial Statements. We have also identified certain accounting policies that we consider critical to understanding our business and our results of operations and we have provided below additional information on those policies.

*Vendor arrangements* — Inventory purchases from vendors are generally under arrangements that automatically renew until cancelled with periodic updates or annual negotiated agreements. Many of these arrangements require the vendors to make payments to us or provide credits to be used against purchases if and when certain conditions are met. We refer to these arrangements as "vendor programs." Vendor programs fall into two broad categories, with some underlying sub-categories. The first category is volume-based rebates. Under those arrangements, our product costs per unit decline as higher volumes of purchases are reached. Certain of our vendor agreements provide that we pay higher per unit costs prior to reaching a predetermined tier, at which time the vendor rebates the per unit differential on past purchases, and also applies the lower cost to future purchases until the next milestone is reached. Current accounting rules provide that companies with a sound basis for estimating their full year purchases, and therefore the ultimate rebate level, can use that estimate to value inventory and cost of goods sold throughout the year. We believe our history of purchases with many vendors provides us with a basis for our estimates of purchase volume. If the anticipated volume of purchases is not reached, however, or if we form the belief at any point in the year that it is not likely to be reached, cost of goods sold and the remaining inventory balances are adjusted to reflect that change in our outlook. We review sales projections and related purchases against vendor program estimates at least quarterly and adjust these balances accordingly. In recent years, we have reduced the number of arrangements that contain this tiered purchase rebate mechanism in exchange for a lower product cost throughout the year. Continued elimination of tiered arrangements could further reduce the potential variability in gross margin from changes in volume-based estimates.

The second broad category of arrangements with our vendors is event-based programs. These arrangements can take many forms, including advertising support, special pricing offered by certain of our vendors for a limited time, payments for special placement or promotion of a product, reimbursement of costs incurred to launch a vendor's product, and various other special programs. These payments are classified as a reduction of costs of goods sold or inventory, based on the nature of the program and the sell-through of the inventory. Some arrangements may meet the specific, incremental, identifiable cost criteria that allow for direct operating expense offset, but such arrangements are not significant.

Vendor programs are recognized throughout the year based on judgment and estimates and amounts due from vendors are generally settled throughout the year based on purchase volumes. The final amounts due from vendors are generally known soon after year-end. Substantially all vendor program receivables outstanding at the end of the year are settled within the three months immediately following year-end. We believe that our historical collection rates of these receivables provide a sound basis for our estimates of anticipated vendor payments throughout the year.

*Inventory valuation* — Inventories are valued at the lower of cost or market value. We monitor active inventory for excessive quantities and slow-moving items and record adjustments as necessary to lower the value if the anticipated realizable amount is below cost. We also identify merchandise that we plan to discontinue or have begun to phase out and assess the estimated recoverability of the carrying value. This includes consideration of the quantity of the merchandise, the rate of sale, and our assessment of current and projected market conditions and anticipated vendor programs. If necessary, we record a charge to cost of sales to reduce the carrying value of this merchandise to our estimate of the lower of cost or realizable amount. Additional promotional activities may be initiated and markdowns may be taken as considered appropriate until the product is sold or otherwise disposed. Estimates and judgments are required in determining what items to stock and at what level, and what items to discontinue and how to value them prior to sale.

We also recognize an expense in cost of sales for our estimate of physical inventory loss from theft, short shipment and other factors — referred to as inventory shrink. During the year, we adjust the estimate of our inventory shrink rate accrual following on-hand adjustments and our physical inventory count results. These changes in estimates may result in volatility within the year or impact comparisons to other periods.

Asset impairments — Store assets are reviewed quarterly for recoverability of their asset carrying amounts. The analysis uses input from retail store operations and the Company's accounting and finance personnel that organizationally report to the chief financial officer. These projections are based on management's estimates of store-level sales, gross margins, direct expenses, exercise of future lease renewal options, where applicable, and resulting cash flows and, by their nature, include judgments about how current initiatives will impact future performance. If the anticipated cash flows of a store cannot support the carrying value of its assets, the assets are written down to estimated fair value using Level 3 inputs. Store asset impairment charges of \$124 million and \$11 million for 2012 and 2011, respectively, are in Asset impairments in the Consolidated Statements of Operations. These charges are measured as the difference between the carrying value of the assets and their estimated fair value, typically calculated as the discounted amount of the estimated cash flow, including estimated salvage value.

Important assumptions used in these projections include an assessment of future overall economic conditions, our ability to control future costs, maintain aspects of positive performance, and successfully implement initiatives designed to enhance sales and gross margins. To the extent that management's estimates of future performance are not realized, future assessments could result in material impairment charges. Unless individual store performance improves, future impairment charges may result.

*Closed store accruals* — We regularly assess the performance of each retail store against historical patterns and projections of future profitability. These assessments are based on management's estimates for sales levels, gross margin attainments, and cash flow generation. If, as a result of these evaluations, management determines that a store will not achieve certain operating performance targets, we may decide to close the store prior to the end of its lease term. At the point of closure, we recognize a liability for the remaining costs related to the property, reduced by an estimate of any sublease income. The calculation of this liability requires us to make assumptions and to apply judgment regarding the remaining term of the lease (including vacancy period), anticipated sublease income, and costs associated with vacating the premises. Lease commitments with no economic benefit to the Company are discounted at the credit-adjusted discount rate at the time of each location closure. With assistance from independent third parties to assess market conditions, we periodically review these judgments and estimates and adjust the liability accordingly. Future fluctuations in the economy and the market demand for commercial properties could result in material changes in this liability. Generally, costs associated with facility closures are included in Operating and selling expenses in our Consolidated Statements of Operations.

*Goodwill and other intangible assets* — We review goodwill and indefinite lived intangible assets for impairment annually in the fourth quarter of the year, or sooner if indicators of potential impairment are identified. For 2012, we have elected to quantitatively test for impairment of goodwill and indefinite lived intangible assets. This test compares the book value of net assets to the fair value of the reporting units. If the fair value is determined to be less than the book value or qualitative factors indicate that it is more likely than not that goodwill is impaired, a second step is performed to compute the amount of impairment as the difference between the estimated fair value of goodwill and the carrying value. We estimate the fair value of the reporting units using discounted cash flow and certain market value data. Fair value of the indefinite lived trade name is obtained using a discounted cash flow analysis. These fair value methods require significant judgment assumptions and estimates, including industry economic factors and future profitability.

The discounted cash flow analysis for goodwill testing begins with the ensuing year's business plan and requires estimates of future sales, profitability, capital expenditures and related cash flows. We include a residual value and discount the aggregate cash flow at an estimated cost of capital for the related unit. We also review the results against a measurement of market capitalization and, to the extent available, market data. Of the goodwill recognized at December 29, 2012, approximately \$44.9 million was in the International Division's European reporting unit and \$19.4 million was in the North American Business Solutions Division's direct reporting unit. The European reporting unit has the greatest sensitivity to potential changes in economic conditions, Company performance and the related impacts on estimated fair value. This reporting unit, including assumed control premiums, exceeded its carrying value by approximately 30%. A significant portion of this excess is associated with the joint venture operations in Mexico. If the joint venture were to be removed from the composition of the reporting unit, it is likely that all of the existing goodwill would be impaired. Additionally, even if there is no change in the composition of the reporting unit, if future performance is below our projections, goodwill and other intangible asset impairment charges can result. The estimated fair value of the direct reporting unit was significantly in excess of its carrying value.

*Income taxes* — Income tax accounting requires management to make estimates and apply judgments to events that will be recognized in one period under rules that apply to financial reporting and in a different period in our tax returns. In particular, judgment is required when estimating the value of future tax deductions, tax credits, and the realizability of net operating loss carryforwards (NOLs), as represented by deferred tax assets. When we believe the realization of all or a portion of a deferred tax asset is not likely, we establish a valuation allowance. Changes in judgments that increase or decrease these valuation allowances impact current earnings.

Because of the downturn in our performance in recent years, as well as the restructuring activities and charges we have taken in response, we established significant valuation allowances during 2009. A portion of those valuation allowances were offset in 2012 when we recorded deferred tax liabilities related to removing the permanent reinvestment assumption of certain foreign investments. Valuation allowances remain in certain foreign jurisdictions. Judgment is required in projecting when operations will be sufficiently positive to allow a conclusion that utilization of the deferred tax assets will once again be more likely than not. Positive performance in subsequent periods and projections of future positive performance will need to be evaluated against existing negative evidence. Valuation allowances in certain foreign jurisdictions were removed during 2010 and 2011 because sufficient positive financial information existed, resulting in tax benefit recognition of \$10 million and \$9 million, respectively. In 2012, additional valuation allowances were established in certain foreign jurisdictions because realizability of the related deferred tax assets was no longer more likely than not. Our effective tax rate in future periods may be positively or negatively impacted by changes in related judgments about valuation allowances or pre-tax operations.

In addition to judgments associated with valuation accounts, our current tax provision can be affected by our mix of income and identification or resolution of uncertain tax positions. Because income from domestic and international sources may be taxed at different rates, the shift in mix during a year or over years can cause the effective tax rate to change. We base our rate during the year on our best estimate of an annual effective rate, and update that estimate quarterly, with the cumulative effect of a change in the anticipated annual rate reflected in the tax provision of that period. Such changes can result in significant interim reporting volatility. This volatility can result from changes in our projected earnings levels, the mix of income, the impact of valuation allowances in certain jurisdictions and the interim accounting rules applied to entities expected to pay taxes on a full year basis, but recognizing losses in an interim period.

We file our tax returns based on our best understanding of the appropriate tax rules and regulations. However, complexities in the rules and our operations, as well as positions taken publicly by the taxing authorities, may lead us to conclude that an accrual for an uncertain tax position ("UTP") is required. We generally maintain accruals for UTPs until examination of the tax position is completed by the taxing authority, available review periods expire, or additional facts and circumstances cause us to change our assessment of the appropriate accrual amount. During the third quarter of 2011, following closure of certain tax audits and the expiration of the statute of limitations on previously open tax years, we reversed approximately \$66 million of UTPs and a related \$32 million of accrued interest. An additional UTP accrual of \$15 million was reversed during the fourth quarter of 2011 following closure of certain tax audits. Matters could arise in the future that could result in additional tax and interest expense or UTP accruals.

Further, the Company has significant operations outside the U.S. During 2012, U.S. deferred taxes were provided on one foreign investment because repatriation of accumulated earnings was at least possible. However, no incremental U.S. deferred taxes have been provided on the remaining foreign operations because earnings from those entities have been and will continue to be reinvested into the foreign operations. Should we decide to distribute earnings from our foreign operations to the U.S., additional income tax expense would be recognized, or valuation allowances reduced, for the income tax consequence of the anticipated distribution and possibly for the calculated tax consequences of the full amount of undistributed earnings, net of allowable offsets.

*Preferred stock paid-in-kind dividends* — Our redeemable preferred stock carries a stated dividend of 10%, subject to future decreases in certain circumstances, and allows for payment in cash or an increase in the preferred stock's liquidation preference as directed by the Board of Directors. The valuation for accounting purposes of the dividend paid in-kind requires significant judgment to determine the estimated fair value. We have used a binomial simulation model to measure values of multiple possible outcomes of the various provisions in the agreement that could impact whether the dividend rate would change based on future stock price performance, whether the Company would issue a notice to call the preferred shares and whether the holders would convert their preferred stock into common stock. While the fair value of preferred stock dividends paid in-kind has no standing in the contractual rights to liquidation preference of the preferred shareholders nor any cash impact on the Company, it impacts the measurement of net income available to common shareholders and earnings per share. Changes in the valuation assumptions such as the risk adjusted rate, stock price volatility and time to call or convert can impact the estimated fair value and therefore the amount reported as net income available to common shareholders and earnings per share. However, the valuation is most sensitive to changes in the underlying common stock price and the model inputs. The Board of Directors decided to pay the dividend in-kind for the first three quarters of 2012 and in cash for the fourth quarter amount due in January 2013. Dividends are expected to be paid in cash during 2013, though the Board of Directors assesses available data quarterly before making that decision.

#### SIGNIFICANT TRENDS, DEVELOPMENTS AND UNCERTAINTIES

*Competitive Factors* — Over the years, we have seen continued development and growth of competitors in all segments of our business. In particular, mass merchandisers and warehouse clubs, as well as grocery and drugstore chains, have increased their assortment of home office merchandise, attracting additional back-to-school customers and year-round casual shoppers. Warehouse clubs have expanded beyond their in-store assortment by adding catalogs and web sites from which a much broader assortment of products may be ordered. We also face competition from other office supply stores that compete directly with us in numerous markets. This competition is likely to result in increased competitive pressures on pricing, product selection and services provided. Many of these retail competitors, including discounters, warehouse clubs, and drug stores and grocery chains, carry basic office supply products. Some of them also feature technology products. Many of them may price certain of these offerings lower than we do, but they have not shown an indication of greatly expanding their somewhat limited product offerings at this time. This trend towards a proliferation of retailers offering a limited assortment of office products is a potentially serious trend in our industry that could shift purchasing away from office supply specialty retailers and adversely impact our results.

We have also seen growth in competitors that offer office products over the Internet, featuring special purchase incentives and one-time deals (such as close-outs). Through our own successful Internet and business-to-business web sites, we believe that we have positioned ourselves competitively in the e-commerce arena.

Another trend in our industry has been consolidation, as competitors in office supply stores and the copy/print channel have been acquired and consolidated into larger, well-capitalized corporations. This trend towards consolidation, coupled with acquisitions by financially strong organizations, is potentially a significant trend in our industry that could impact our results.

We regularly consider these and other competitive factors when we establish both offensive and defensive aspects of our overall business strategy and operating plans.

*Economic Factors* — Our customers in the North American Retail Division and the International Division and many of our customers in the North American Business Solutions Division are predominantly small and home office businesses. Accordingly, spending by these customers is affected by macroeconomic conditions, such as changes in the housing market and commodity costs, credit availability and other factors. The downturn in the global economy experienced in recent years negatively impacted our sales and profits.

*Liquidity Factors* — Historically, we have generated positive cash flow from operating activities and have had access to broad financial markets that provide the liquidity we need to operate our business. Together, these sources have been used to fund operating and working capital needs, as well as invest in business expansion through new store openings, capital improvements and acquisitions. Due to the downturn in the global economy, our operating results have declined. We have in place an asset based credit facility to provide liquidity, subject to availability as specified in the agreement. Further deterioration in our financial results could negatively impact our credit ratings, our liquidity and our access to the capital markets. Certain of our existing indebtedness matures in 2013 and there can be no assurance that we will be able to refinance all or a portion of that indebtedness. If we are able to refinance all or a portion of that indebtedness, which would increase future interest expense.

#### MARKET SENSITIVE RISKS AND POSITIONS

We have adopted an enterprise risk management process patterned after the principles set out by the Committee of Sponsoring Organizations (COSO) in 2004. Management utilizes a common view of exposure identification and risk management. A process is in place for periodic risk reviews and identification of appropriate mitigation strategies.

We have market risk exposure related to interest rates, foreign currency exchange rates, and commodities. Market risk is measured as the potential negative impact on earnings, cash flows or fair values resulting from a hypothetical change in interest rates or foreign currency exchange rates over the next year. Interest rate changes on obligations may result from external market factors, as well as changes in our credit rating. We manage our exposure to market risks at the corporate level. The portfolio of interest-sensitive assets and liabilities is monitored to provide liquidity necessary to satisfy anticipated short-term needs. Our risk management policies allow the use of specified financial instruments for hedging purposes only; speculation on interest rates, foreign currency rates, or commodities is not permitted.

#### Interest Rate Risk

We are exposed to the impact of interest rate changes on cash, cash equivalents and debt obligations. The impact on cash and short-term investments held at December 29, 2012 from a hypothetical 10% decrease in interest rates would be a decrease in interest income of less than \$0.1 million.

Market risk associated with our debt portfolio is summarized below:

		2012			2011	
	Carrying	Fair	Risk	Carrying	Fair	Risk
(In thousands)	Value	Value	Sensitivity	Value	Value	Sensitivity
6.25% senior notes	\$149,953	\$153,750	\$ 474	\$399,953	\$381,067	\$ 2,860
9.75% senior secured notes	\$250,000	\$265,938	\$ 5,483	\$ —	\$ —	\$ —
Asset based credit facility						

The risk sensitivity of fixed rate debt reflects the estimated increase in fair value from a 50 basis point decrease in interest rates, calculated on a discounted cash flow basis. The sensitivity of variable rate debt reflects the possible increase in interest expense during the next period from a 50 basis point change in interest rates prevailing at year-end.

#### Foreign Exchange Rate Risk

We conduct business through entities in various countries outside the United States where their functional currency is not the U.S. dollar. While we sell directly or indirectly to customers in 59 countries, the principal operations of our International Division are in countries with Euro, British Pound and Mexican Peso functional currencies. We continue to assess our exposure to foreign currency fluctuation against the U.S. dollar. As of December 29, 2012, a 10% change in the applicable foreign exchange rates would result in an increase or decrease in our pretax earnings of approximately \$5 million.

Although operations generally are conducted in the relevant local currency, we also are subject to foreign exchange transaction exposure when our subsidiaries transact business in a currency other than their own functional currency. This exposure arises primarily from inventory purchases in a foreign currency. At December 29, 2012, there was \$27 million of foreign exchange forward contracts hedging inventory exposures. This amount was the highest amount outstanding at any point during 2012. Also, from time-to-time, we enter into foreign exchange forward transactions to protect against possible changes in exchange rates related to scheduled or anticipated cash movements among our operating entities. At December 29, 2012, there were \$14 million of foreign exchange forward contracts to hedge these movements.

Generally, we evaluate the performance of our international businesses by focusing on the "local currency" results of the business, and not with regard to the translation into U.S. dollars, as the latter is impacted by external factors.

#### Commodities Risk

We operate a large network of stores and delivery centers around the world. As such, we purchase significant amounts of fuel needed to transport products to our stores and customers as well as pay shipping costs to import products from overseas. We are exposed to potential changes in the underlying commodity costs associated with this transport activity. As of December 29, 2012, a 10% change in domestic commodity costs would result in an increase or decrease in our operating profit of approximately \$5 million.

#### INFLATION AND SEASONALITY

Although we cannot determine the precise effects of inflation on our business, we do not believe inflation has had a material impact on our sales or the results of our operations. We consider our business to be somewhat seasonal, with sales generally trending lower in the second quarter, following the "back-to-business" sales cycle in the first quarter and preceding the "back-to-school" sales cycle in the third quarter and the holiday sales cycle in the fourth quarter. Certain working capital components may build and recede during the year reflecting established selling cycles. Business cycles can and have impacted our operations and financial position when compared to other periods.

#### NEW ACCOUNTING STANDARDS

Effective for the first quarter of 2013, a new accounting standard will require disclosure of amounts reclassified out of comprehensive income by component. In addition, companies will be required to present, either on the face of financial statements or in a single note, significant amounts reclassified out of accumulated other comprehensive income and the income statement line item affected by the reclassification.

Effective for the first quarter of 2014, a new accounting standard will require disclosure of information about the effect or potential effect of financial instrument netting arrangements on financial position. Companies will be required to present both net (offset amounts) and gross information in the notes to the financial statements for relevant assets and liabilities that are offset. This standard was further clarified to apply to specified financial instruments subject to master netting agreements.

Including the above, there are no recently issued accounting standards that are expected to have a material effect on our financial condition, results of operations or cash flows. However, the Financial Accounting Standards Board has issued proposed accounting rules relating to leasing transactions that, if passed in their current form, would have significant impacts to our financial statements. Among other things, the current proposal would create a right of use asset and corresponding liability on the balance sheet measured at the present value of lease payments. A lessee would use the effective-interest method to subsequently measure the liability and the right-of-use asset would be amortized based on one of two approaches (determined by the nature of the underlying asset). These proposed changes in accounting rules would have no direct economic impact to the Company.

#### FORWARD-LOOKING STATEMENTS

The Private Securities Litigation Reform Act of 1995 (the "Reform Act") provides protection from liability in private lawsuits for "forward-looking" statements made by public companies under certain circumstances, provided that the public company discloses with specificity the risk factors that may impact its future results. We want to take advantage of the "safe harbor" provisions of the Reform Act. This Annual Report contains both historical information and other information that you can use to infer future performance. Examples of historical information include our annual financial statements and the commentary on past performance contained in our MD&A. While we have specifically identified certain information as being forward-looking in the context of its presentation, we caution you that, with the exception of information that is historical, all the information contained in this Annual Report should be considered to be "forward-looking statements" as referred to in the Reform Act. Without limiting the generality of the preceding sentence, any time we use the words "estimate," "project," "intend," "expect," "believe," "anticipate," "continue" and similar expressions, we intend to clearly express that the information deals with possible future events and is forward-looking in nature. Certain information in our MD&A is clearly forward-looking in nature, and without limiting the generality of the preceding cautionary statements, we specifically advise you to consider all of our MD&A in the light of the cautionary statements set forth herein.

Forward-looking information involves future risks and uncertainties. Much of the information in this report that looks towards future performance of our Company is based on various factors and important assumptions about future events that may or may not actually come true. As a result, our operations and financial results in the future could differ materially and substantially from those we have discussed in the forward-looking statements in this Annual Report. Significant factors that could impact our future results are provided in Item 1A. Risk Factors included in this Annual Report. Other risk factors are incorporated into the text of our MD&A, which should itself be considered a statement of future risks and uncertainties, as well as management's view of our businesses.

## Item 15. Exhibits and Financial Statement Schedules.

(a) The following documents are filed as a part of this report:

1. The financial statements listed in "Index to Financial Statements."

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#### REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Office Depot, Inc.:

We have audited the accompanying consolidated balance sheets of Office Depot, Inc. and subsidiaries (the "Company") as of December 29, 2012 and December 31, 2011, and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows for each of the three fiscal years in the period ended December 29, 2012. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Office Depot, Inc. and subsidiaries at December 29, 2012 and December 31, 2011, and the results of their operations and their cash flows for each of the three fiscal years in the period ended December 29, 2012, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note A to the consolidated financial statements, the accompanying consolidated financial statements for each of the three fiscal years in the period ended December 29, 2012 have been retrospectively adjusted for (i) a change in accounting principle to present shipping and handling costs within cost of goods sold and occupancy costs, and (ii) changes in methodology for the allocation of costs to the Company's reportable segments.

/s/ DELOITTE & TOUCHE LLP Certified Public Accountants

Boca Raton, Florida

February 20, 2013 (April 30, 2013 as to the effects of (i) the change in accounting principle described in Note A, and (ii) changes in reportable segment presentation described in Note A, Note B, and Note O)

# OFFICE DEPOT, INC. CONSOLIDATED BALANCE SHEETS

(In thousands, except share and per share amounts)

ASSETS		December 29, 2012	December 31, 2011
Cash and cash equivalents Receivables, net of allowances of \$22,755 in 2012 and \$19,671 in 2011         \$ 570,681         \$ 570,681           Receivables, net of allowances of \$22,755 in 2012 and \$19,671 in 2011         803,944         862,831           Inventories         170,810         163,646           Propeid expenses and other current assets         170,810         163,646           Total current assets         2,696,190         2,744,132           Property and equipment, net         64,312         61,879           Other intangible assets, net         34,221         47,791           Other intangible assets, net         344,276         294,899           Total assets         344,276         294,899           Total assets         344,276         294,899           Total assets         931,618         1,010,011           Income taxes payable         \$ 934,892         \$ 933,636           Accured expenses and other current liabilities         931,618         1,010,011           Income taxes payable         \$ 340         7,389           Short-term borrowings and current maturities of long-term debt         174,144         364,001           Total current liabilities         2,047,337         7,389           Deferred income taxes and other current maturities         2,047,437	ASSETS		· · · · · · · · · · · · · · · · · · ·
Recivables, net of allowances of \$22,755 in 2012 and \$19,671 in 2011         803,944         862,831           Inventories         1,050,625         1,146,974           Prepaid expenses and other current assets         170,810         1.63,646           Total current assets         2,696,190         2,744,132           Property and equipment, net         85,341         1,067,040           Godwill         64,312         61,899           Other intangible assets, net         334,726         294,899           Deferred income taxes         343,726         294,899           Total assets         54,010,779         54,250,981           Carrent liabilities:         54,010,779         54,250,981           Trade accounts payable         \$ 934,892         \$ 993,636           Accrured expenses and other current liabilities         931,618         1,010,011           Income taxes payable         \$ 934,892         \$ 993,636           Short-term borrowings and current maturities of long-term debt         174,148         364,011           Income taxes ayable         \$ 934,812         \$ 93,636           Short-term borrowings and current maturities of long-term debt         174,148         364,011           Income taxes and other long-term liabilities         2,047,437         364,013	Current assets:		
Inventories         1,050,625         1,146,074           Prepaid expenses and other current assets         70,810         163,646           Total current assets         2,696,6190         2,744,132           Property and equipment, net         856,341         1,067,040           Goodwill         64,312         61,899           Other intangible assets, net         16,789         35,223           Deferred income taxes         34,3726         2294,899           Total assets         54,010,779         \$4,250,984           LIABULTITES AND STOCKHOLDERS' EQUITY         \$4,250,984         \$1,010,011           Carrent liabilities:         Trade accounts payable         \$ 931,618         1,010,011           Income taxes and other current liabilities         \$ 931,618         1,010,011         1,025,0284           Short-term borrowings and current maturities of long-term debt         174,148         364,001         7,389           Short-term borrowings and current maturities         485,331         648,313         648,313           Deferred income taxes and other long-term liabilities         2,962,830         3,148,063           Commiteme taxe and other long-term liabilities         2,962,830         3,148,063           Commiteme taxe and other long-terem liabilities         2,917         2,964 <td>Cash and cash equivalents</td> <td>\$ 670,811</td> <td>\$ 570,681</td>	Cash and cash equivalents	\$ 670,811	\$ 570,681
Prepaid expenses and other current assets         170,810         163,646           Total current assets         2,696,190         2,744,132           Propery and equipment, net         86,6341         1,07,040           Godwill         64,312         61,899           Other intangible assets, net         33,221         47,791           Other assets         334,726         294,899           Total assets         343,726         294,899           Total assets         343,726         294,899           Current liabilities         54,010,779         54,250,984           Current liabilities         593,682         \$ 993,636           Accrured expenses and other current liabilities         5316         7,389           Short-term borrowings and current maturities of long-term debt         5,310         7,389           Short-term borrowings and current maturities of long-term debt         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         2,045,968         2,047,437           Commisments and contingencies         2,045,968         2,047,437	Receivables, net of allowances of \$22,755 in 2012 and \$19,671 in 2011	803,944	862,831
Total current assets         2,696,190         2,744,132           Property and equipment, net         86,341         1,067,040           Goodwill         64,312         61,899           Other intangible assets, net         16,789         35,223           Deferred income taxes         33,421         47,791           Other assets         33,421         47,791           Total assets         34,726         294,899           Total assets         33,421         47,791           Current liabilities:         Trade accounts payable         \$ 93,636           Accrured expenses and other current liabilities         \$ 931,618         1,010,011           Income taxes payable         \$ 5,310         7,389           Short-term borrowings and current maturities of long-term debt         174,148         36,401           Total current liabilities         431,531         452,313           Long-term debt, net of current maturities of long-term debt         2,962,800         3,148,063           Commitments and contingencies         2,962,800         3,148,063           Commitments and contingencies         2,917         2,864           Redeenable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)         386,401         363,636           St	Inventories	1,050,625	1,146,974
Property and equipment, net         856,341         1,067,040           Goodwill         64,312         61,899           Other intangible assets, net         33,421         47,791           Other assets         33,421         47,791           Other assets         33,421         47,791           Other assets         33,421         47,791           Current labilities:         34,010,779         \$4,250,984           LIABILITIES AND STOCKHOLDERS' EQUITY         \$4,209,984         \$934,682         \$ 993,636           Accrued expenses and other current labilities         931,618         1,010,011           Income taxes payable         \$ 174,148         36,401           Short-term borrowings and current maturities of long-term debt         174,148         36,401           Total current liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         431,531         452,313           Long-term deto current maturities of long-term debt         174,148         364,01           Total labilities         2,905,2680         3,148,063           Commitments and contingencies         485,331         648,313           Gotek-authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011         2,917	Prepaid expenses and other current assets	170,810	163,646
Goodwill         64,312         61,899           Other intangible assets, net         16,789         33,221         47,791           Deferred income taxes         33,421         47,791           Other assets         343,726         294,899           Total assets         \$4,010,779         \$4,250,984           LIABILITIES AND STOCKHOLDERS' EQUITY         Exceeding the set set set set set set set set set se	Total current assets	2,696,190	2,744,132
Other intangible assets, net         16,789         35,223           Deferred income taxes         33,421         47,791           Other assets         34,326         294,899           Total assets         \$4,010,779         \$4,250,944           LIABULTTIES AND STOCKHOLDERS' EQUITY         \$4,250,946           Current liabilities:         Trade accounts payable         \$ 933,636           Accrued expenses and other current liabilities         931,618         1,010,011           Income taxes payable         \$ 5,310         7,330           Short-term borrowings and current maturities of long-term debt         174,418         36,401           Total current liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         436,331         648,333           Total current liabilities         2,045,968         2,047,437           Deferred stock, net (liquidation preference - \$406,773 in 2012 and \$377,729 in 2011         386,401         363,636           Stockholders' equity:         2,017         2,917         2,916           Ommitments and contingencies         2,917         2,916         363,636           Stockholders' equity:	Property and equipment, net	856,341	1,067,040
Deferred income taxes         33,421         47,791           Other assets         343,726         294,899           Total assets         \$4,010,779         \$4,250,984           LIABILITIES AND STOCKHOLDERS' EQUITY             Current liabilities:          \$93,636         \$93,636           Accrued expenses and other current liabilities         \$93,618         1,010,011           Income taxes payable         \$5,310         7,389           Short-term borrowings and current maturities of long-term debt         174,148         364,001           Deferered income taxes and other long-term liabilities         2,045,968         2,047,433           Deferered income taxes and other long-term liabilities         2,045,968         2,047,431           Deferered income taxes and other long-term liabilities         485,331         648,313           Deferered income taxes and other long-term liabilities         2,045,968         3,148,063           Commitments and contingencies         #85,331         648,313         648,313           Total liabilities         2,962,803         3,148,063         363,656           Stockholders' equity:	Goodwill	64,312	61,899
Other assets         343,726         294,899           Total assets         \$4,010,779         \$4,250,984           LIABILITIES AND STOCKHOLDERS' EQUITY             Current liabilities:         7         7         893,636           Accrued expenses and other current liabilities of long-term debt         931,618         1,010,011           Income taxes payable         5,310         7,389           Short-term borrowings and current maturities of long-term debt         174,148         36,401           Total current liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         485,331         648,313           Long-term debt, net of current maturities of long-term debt         485,331         648,313           Total liabilities         2,045,968         2,047,437           Commitments and contingencies         485,331         648,313           Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)         366,401         363,636           Stockholders' equity:         Common stock – authorized 800,000,000 shares of \$,01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011         2,917         2,864	Other intangible assets, net	16,789	35,223
Total assets         \$4,250,984           LIABILITIES AND STOCKHOLDERS' EQUITY	Deferred income taxes	33,421	47,791
LIABILITIES AND STOCKHOLDERS' EQUITY         Image: Control of the state of t	Other assets	343,726	294,899
Current liabilities:       \$ 934,892       \$ 993,636         Accrued expenses and other current liabilities       931,618       1,010,011         Income taxes payable       5,310       7,389         Short-term borrowings and current maturities of long-term debt       174,148       36,401         Total current liabilities       2,045,968       2,047,437         Deferred income taxes and other long-term liabilities       431,531       452,313         Long-term debt, net of current maturities       _485,331       _648,313         Total liabilities       _2,962,830       _3,148,603         Commitments and contingencies       _2,962,830       _3,148,636         Stockholders' equity:	Total assets	\$4,010,779	\$4,250,984
Current liabilities:       \$ 934,892       \$ 993,636         Accrued expenses and other current liabilities       931,618       1,010,011         Income taxes payable       5,310       7,389         Short-term borrowings and current maturities of long-term debt       174,148       36,401         Total current liabilities       2,045,968       2,047,437         Deferred income taxes and other long-term liabilities       431,531       452,313         Long-term debt, net of current maturities       _485,331       _648,313         Total liabilities       _2,962,830       _3,148,603         Commitments and contingencies       _2,962,830       _3,148,636         Stockholders' equity:	LIABILITIES AND STOCKHOLDERS' EQUITY		
Accrued expenses and other current liabilities       931,618       1,010,011         Income taxes payable       5,310       7,389         Short-term borrowings and current maturities of long-term debt       174,148       36,401         Total current liabilities       2,045,968       2,047,437         Deferred income taxes and other long-term liabilities       431,531       452,313         Long-term debt, net of current maturities       485,331       648,313         Total liabilities       2,962,830       3,148,063         Commitments and contingencies       366,401       363,636         Stockholders' equity:       386,401       363,636         Office Depot, Inc. stockholders' equity:       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       (61,241       739,071         Noncontrolling interests       107       214	Current liabilities:		
Accrued expenses and other current liabilities       931,618       1,010,011         Income taxes payable       5,310       7,389         Short-term borrowings and current maturities of long-term debt       174,148       36,401         Total current liabilities       2,045,968       2,047,437         Deferred income taxes and other long-term liabilities       485,331       648,313         Long-term debt, net of current maturities       485,331       648,313         Total liabilities       2,962,830       3,148,063         Commitments and contingencies       366,401       363,636         Stockholders' equity:       366,401       363,636         Office Depot, Inc. stockholders' equity:       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       (61,241       739,071         Noncontrolling interests       107       214	Trade accounts payable	\$ 934,892	\$ 993,636
Short-term borrowings and current maturities of long-term debt         174,148         36,401           Total current liabilities         2,045,968         2,047,437           Deferred income taxes and other long-term liabilities         431,531         452,313           Long-term debt, net of current maturities         485,331         648,313           Total liabilities         2,962,830         3,148,063           Commitments and contingencies         2         386,401         363,636           Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)         386,401         363,636           Stockholders' equity:         386,401         363,636         363,636           Office Depot, Inc. stockholders' equity:         2,917         2,864           Additional paid-in capital         1,119,775         1,138,542           Accumulated other comprehensive income         212,717         194,522           Accumulated deficit         (616,253)         (57,733)           Total Office Depot, Inc. stockholders' equity         (57,733)         (57,733)           Total Office Depot, Inc. stockholders' equity         661,441         739,071           Noncontrolling interests         107         214           Total equity         661,548         739,285		931,618	1,010,011
Total current liabilities       2,047,437         Deferred income taxes and other long-term liabilities       431,531       452,313         Long-term debt, net of current maturities       485,331       648,313         Total liabilities       2,962,830       3,148,063         Commitments and contingencies       363,636         Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)       386,401       363,636         Stockholders' equity:       301       363,636       363,636         Office Depot, Inc. stockholders' equity:       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Income taxes payable	5,310	7,389
Deferred income taxes and other long-term liabilities         431,531         452,313           Long-term debt, net of current maturities         485,331         648,313           Total liabilities         2,962,830         3,148,063           Commitments and contingencies         386,401         363,636           Stockholders' equity:         386,401         363,636           Office Depot, Inc. stockholders' equity:         2011         386,401         2,917           Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011         2,917         2,864           Additional paid-in capital         1,119,775         1,138,542           Accumulated other comprehensive income         212,717         194,522           Accumulated deficit         (616,235)         (539,124)           Treasury stock, at cost – 5,915,268 shares in 2012 and 2011         (57,733)         (57,733)           Total Office Depot, Inc. stockholders' equity         661,441         739,071           Noncontrolling interests         107         214           Total equity         661,548         739,285	Short-term borrowings and current maturities of long-term debt	174,148	36,401
Long-term debt, net of current maturities         485,331         648,313           Total liabilities         2,962,830         3,148,063           Commitments and contingencies         386,401         363,636           Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)         386,401         363,636           Stockholders' equity:         0ffice Depot, Inc. stockholders' equity:             Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011         2,917         2,864           Additional paid-in capital         1,119,775         1,138,542           Accumulated other comprehensive income         212,717         194,522           Accumulated deficit         (616,235)         (539,124)           Treasury stock, at cost – 5,915,268 shares in 2012 and 2011         (57,733)         (57,733)           Total Office Depot, Inc. stockholders' equity         661,441         739,071           Noncontrolling interests         107         214           Total equity         661,548         739,285	Total current liabilities	2,045,968	2,047,437
Long-term debt, net of current maturities         485,331         648,313           Total liabilities         2,962,830         3,148,063           Commitments and contingencies         386,401         363,636           Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)         386,401         363,636           Stockholders' equity:         0ffice Depot, Inc. stockholders' equity:             Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011         2,917         2,864           Additional paid-in capital         1,119,775         1,138,542           Accumulated other comprehensive income         212,717         194,522           Accumulated deficit         (616,235)         (539,124)           Treasury stock, at cost – 5,915,268 shares in 2012 and 2011         (57,733)         (57,733)           Total Office Depot, Inc. stockholders' equity         661,441         739,071           Noncontrolling interests         107         214           Total equity         661,548         739,285	Deferred income taxes and other long-term liabilities	431,531	452,313
Comments and contingencies         (a)	Long-term debt, net of current maturities	485,331	648,313
Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)       386,401       363,636         Stockholders' equity:            Office Depot, Inc. stockholders' equity:            Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Total liabilities	2,962,830	3,148,063
Stockholders' equity:       Office Depot, Inc. stockholders' equity:         Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Commitments and contingencies		
Office Depot, Inc. stockholders' equity:       Image: Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Redeemable preferred stock, net (liquidation preference – \$406,773 in 2012 and \$377,729 in 2011)	386,401	363,636
Office Depot, Inc. stockholders' equity:       Image: Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in 2011       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Stockholders' equity:		
Common stock – authorized 800,000,000 shares of \$.01 par value; issued shares – 291,734,027 in 2012 and 286,430,567 in       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (61,235)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285			
2011       2,917       2,864         Additional paid-in capital       1,119,775       1,138,542         Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285			
Accumulated other comprehensive income       212,717       194,522         Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285		2,917	2,864
Accumulated deficit       (616,235)       (539,124)         Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Additional paid-in capital	1,119,775	1,138,542
Treasury stock, at cost – 5,915,268 shares in 2012 and 2011       (57,733)       (57,733)         Total Office Depot, Inc. stockholders' equity       661,441       739,071         Noncontrolling interests       107       214         Total equity       661,548       739,285	Accumulated other comprehensive income	212,717	194,522
Total Office Depot, Inc. stockholders' equity         661,441         739,071           Noncontrolling interests         107         214           Total equity         661,548         739,285	Accumulated deficit	(616,235)	(539,124)
Noncontrolling interests         107         214           Total equity         661,548         739,285	Treasury stock, at cost – 5,915,268 shares in 2012 and 2011	(57,733)	(57,733)
Total equity 661,548 739,285	Total Office Depot, Inc. stockholders' equity	661,441	739,071
	Noncontrolling interests	107	214
	Total equity	661,548	739,285
	Total liabilities and equity	\$4,010,779	\$4,250,984

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

# OFFICE DEPOT, INC. CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share amounts)

		2012		2011		2010
Sales	\$1	0,695,652	\$1	1,489,533	\$11	1,633,094
Cost of goods sold and occupancy costs		8,159,614		8,784,405	9	9,022,852
Gross profit		2,536,038		2,705,128	2	2,610,242
Operating and selling expenses		1,823,826		1,971,328	-	1,937,406
Recovery of purchase price		(68,314)		—		
Asset impairments		138,540		11,427		51,295
General and administrative expenses		672,827		688,619		658,832
Operating income (loss)		(30,841)		33,754		(37,291)
Other income (expense):						
Interest income		2,240		1,231		4,663
Interest expense		(68,937)		(33,223)		(58,498)
Loss on extinguishment of debt		(12,110)				—
Miscellaneous income, net		34,225		30,857		34,451
Earnings (loss) before income taxes		(75,423)		32,619		(56,675)
Income tax expense (benefit)		1,697		(63,072)		(10,470)
Net earnings (loss)		(77,120)		95,691		(46,205)
Less: Net loss attributable to the noncontrolling interests		(9)		(3)		(1,582)
Net earnings (loss) attributable to Office Depot, Inc.		(77,111)		95,694		(44,623)
Preferred stock dividends		32,934		35,705		37,113
Net earnings (loss) attributable to common stockholders	\$	(110,045)	\$	59,989	\$	(81,736)
Net earnings (loss) per share:						
Basic	\$	(0.39)	\$	0.22	\$	(0.30)
Diluted		(0.39)		0.22		(0.30)

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

# **OFFICE DEPOT, INC.**

# CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

(In thousands, except per share amounts)

	2012	2011	2010
Net earnings (loss)	\$(77,120)	\$ 95,691	\$(46,205)
Other comprehensive income (loss), net of tax, where applicable:			
Foreign currency translation adjustments	23,465	(21,816)	(32,224)
Amortization of gain on cash flow hedge	(2,308)	(1,690)	(1,659)
Change in deferred pension	(2,910)	(6,379)	19,942
Change in deferred cash flow hedge	(43)	617	(51)
Other	—	—	(246)
Total other comprehensive income (loss), net of tax, where applicable	18,204	(29,268)	(14,238)
Comprehensive income (loss)	(58,916)	66,423	(60,443)
Less: comprehensive income (loss) attributable to the noncontrolling interests	—	14	(1,248)
Comprehensive income (loss) attributable to Office Depot, Inc. stockholders	\$(58,916)	\$ 66,409	\$(59,195)

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

# OFFICE DEPOT, INC. CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

(In thousands, except share amounts)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Com	cumulated Other prehensive me (Loss)	(A	Retained Earnings ccumulated Deficit)	Treasury Stock	ontrolling	Stoc	Total ckholders' Equity
Balance at December 26, 2009	280,652,278	\$ 2,807	\$1,193,157	\$	238,379	\$	(590,195)	\$(57,733)	\$ 2,827	\$	789,242
Disposition of majority-owned subsidiaries									2,523		2,523
Purchase of subsidiary shares from noncontrolling interests			(16,066)						(3,623)		(19,689)
Comprehensive income (loss), net of tax:											
Net loss							(44,623)		(1,582)		(46,205)
Other comprehensive income (loss)					(14,572)				334		(14,238)
Preferred stock dividends			(37,113)								(37,113)
Grant of long-term incentive stock	223,762	2	(2)								_
Forfeiture of restricted stock	(236,512)	(2)									(2)
Exercise of stock options (including income tax benefits and withholding)	2,419,708	24	590								614
Amortization of long-term incentive stock grants			20,843						 		20,843
Balance at December 25, 2010	283,059,236	\$ 2,831	\$1,161,409	\$	223,807	\$	(634,818)	\$(57,733)	\$ 479	\$	695,975
Purchase of subsidiary shares from noncontrolling interests			(983)						(279)		(1,262)
Comprehensive income (loss), net of tax											
Net loss							95,694		(3)		95,691
Other comprehensive income (loss)					(29,285)				17		(29, 268)
Preferred stock dividends			(35,705)								(35,705)
Grant of long-term incentive stock	2,641,074	26									26
Forfeiture of restricted stock	(342,281)	(3)									(3)
Exercise of stock options (including income tax benefits and withholding)	1,072,538	10	(74)								(64)
Amortization of long-term incentive stock grants			13,895								13,895
Balance at December 31, 2011	286,430,567	\$ 2,864	\$1,138,542	\$	194,522	\$	(539, 124)	\$(57,733)	\$ 214	\$	739,285
Purchase of subsidiary shares from noncontrolling interests		, ,	(444)		- /-		()		(107)		(551)
Comprehensive income (loss), net of tax			( )								()
Net loss							(77, 111)		(9)		(77, 120)
Other comprehensive income					18,195				9		18,204
Preferred stock dividends			(32,934)		-,						(32,934)
Grant of long-term incentive stock	3,608,806	36	(36)								
Forfeiture of restricted stock	(446,703)	(4)	4								
Exercise and release of incentive stock (including income tax benefits and		· · · ·									
withholding)	2,141,357	21	1.064								1.085
Amortization of long-term incentive stock grants	. ,		13,579								13,579
Balance at December 29, 2012	291,734,027	\$ 2,917	\$1,119,775	\$	212,717	\$	(616,235)	\$ <u>(57,733</u> )	\$ 107	\$	661,548

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

#### OFFICE DEPOT, INC. CONSOLIDATED STATEMENTS OF CASH FLOWS (In thousands)

	2012	2011	2010
Cash flows from operating activities:			
Net earnings (loss)	\$ (77,120)	\$ 95,691	\$ (46,205)
Adjustments to reconcile net earnings (loss) to net cash provided by operating activities:			
Depreciation and amortization	203,189	211,410	208,319
Charges for losses on inventories and receivables	64,930	56,200	57,824
Net earnings from equity method investments	(30,462)	(31,426)	(30,635)
Loss on extinguishment of debt	13,377	—	—
Recovery of purchase price	(58,049)	_	—
Pension plan funding	(58,030)		
Dividends received		25,016	—
Asset impairments	138,540	11,427	51,295
Compensation expense for share-based payments	13,579	13,895	20,840
Deferred income taxes and deferred tax assets valuation allowances	667	(14,999)	15,551
Loss (gain) on disposition of assets	(1,764)	4,420	8,709
Other operating activities	5,375	8,510	11,501
Changes in assets and liabilities:			
Decrease in receivables	44,052	99,927	60,273
Decrease (increase) in inventories	52,733	53,902	(87,724)
Net decrease (increase) in prepaid expenses and other assets	(138)	25,754	2,522
Net decrease in accounts payable, accrued expenses and other current and long-term liabilities	(131,547)	(360,060)	(69,144)
Total adjustments	256,452	103,976	249,331
Net cash provided by operating activities	179,332	199,667	203,126
Cash flows from investing activities:	175,552	155,007	205,120
Capital expenditures	(120,260)	(130,317)	(169,452)
Acquisitions, net of cash acquired, and related payments	(120,200)		
Recovery of purchase price	 49,841	(72,667)	(10,952)
Proceeds from disposition of assets and other	32,122	8,117	35,393
Restricted cash	52,122		
	0 5 70	(8,800)	(46,509)
Release of restricted cash	8,570	46,509	
Net cash used in investing activities	(29,727)	(157,158)	(191,520)
Cash flows from financing activities:			
Net proceeds from employee share-based transactions	1,586	254	1,011
Advance received	—	8,800	
Payment for non-controlling interests	(551)	(1,262)	(21,786)
Loss on extinguishment of debt	(13,377)	—	
Debt retirement	(250,000)		
Debt issuance	250,000	—	
Debt related fees	(8,012)	(9,945)	(4,688)
Dividends on redeemable preferred stock	—	(36,852)	(27,639)
Proceeds from issuance of borrowings	21,908	9,598	52,488
Payments on long- and short-term borrowings	(56,736)	(69,169)	(30,284)
Net cash used in financing activities	(55,182)	(98,576)	(30,898)
Effect of exchange rate changes on cash and cash equivalents	5,707	(730)	(13,128)
Net increase (decrease) in cash and cash equivalents	100,130	(56,797)	(32,420)
Cash and cash equivalents at beginning of period	570,681	627,478	659,898
Cash and cash equivalents at end of period	\$ 670,811	\$ 570,681	\$ 627,478
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The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

#### OFFICE DEPOT, INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Nature of Business:** Office Depot, Inc. ("Office Depot" or the "Company") is a global supplier of office products and services under the Office Depot <sup>®</sup> brand and other proprietary brand names. As of December 29, 2012, the Company sold to customers throughout North America, Europe, Asia and Latin America. Office Depot operates wholly-owned entities, majority-owned entities and participates in other ventures and alliances.

**Basis of Presentation:** The Consolidated Financial Statements of Office Depot and its subsidiaries have been prepared in accordance with accounting principles generally accepted in the United States of America. All intercompany transactions have been eliminated in consolidation. In addition to wholly owned subsidiaries, the Company consolidates entities where it controls financial and operating policies but does not have total ownership. Noncontrolling interests are presented in the Consolidated Balance Sheets and Consolidated Statements of Stockholders' Equity as a component of Total stockholders' equity and in the Consolidated Statements of Operations as a specific allocation of Net earnings (loss). The equity method of accounting is used for investments in which the Company does not control but either shares control equally or has significant influence. During 2010, the Company amended the shareholders' agreement related to the venture in India such that control is shared equally. The venture was deconsolidated and subsequently accounted for under the equity method. Remaining investment at year end 2012 and 2011 in this venture is considered immaterial. The Company also participates in a joint venture selling office products and services in Mexico and Central and South America that is accounted for using the equity method. Refer to Note P for additional information on investment in unconsolidated joint venture.

Prior year amounts in the Asset impairment line of the Consolidated Statements of Operations and Consolidated Statements of Cash Flows have been reclassified to conform to the current year presentation.

During the first quarter of 2013, the Company modified its measure of business segment operating income for management reporting purposes to allocate to the three segments, North American Retail Division, North American Business Solutions Division and International Division (the "Divisions"), additional General and administrative and other expenses, as well as to allocate to the Divisions additional assets, capital expenditures and related depreciation expense. No changes have been made to the composition of these reportable segments. Additionally, the Company changed its accounting principle of presenting shipping and handling expenses in Operating and selling expenses (previously Store and warehouse operating and selling expenses) to a preferable accounting principle of presenting such expenses in Costs of goods sold and occupancy costs. The Company considers this presentation preferable because it includes costs associated with revenues in the calculation of gross profit and provides better comparability to industry peers. Prior period results have been reclassified to conform to the current period presentation for both the change in accounting principle and the measurement of Division operating income (loss). Neither the change in accounting principle, nor the change in Division operating income (loss) impacted Consolidated Operating income (loss), Net earnings (loss), or Earnings (loss) per share for the periods presented.

Information in these financial statements impacted by these changes include the reclassification of shipping and handling costs totaling \$712 million, \$721 million and \$747 million in 2012, 2011 and 2010, respectively, resulting in an increase in Cost of goods sold and occupancy costs with a corresponding decrease in Operating and selling expenses, the description of certain accounting policies in this Note A, the presentation of segment exit and restructuring-related charges in Note B, the presentation of segment information in Note O and Gross profit amounts in Note R. For 2012, 2011, and 2010, Operating income for the three Divisions has been revised to include \$271.9 million, \$238.8 million, and \$269.1 million, respectively, of General and administrative and other expenses that previously were considered Corporate costs, and to reflect other Divisional cost allocations that have been revised to conform to allocation rates used in the current period.

**Fiscal Year:** Fiscal years are based on a 52- or 53-week period ending on the last Saturday in December. Fiscal 2011 financial statements consisted of 53 weeks, with the additional week occurring in the fourth quarter; all other periods presented in the Consolidated Financial Statements consisted of 52 weeks.

#### OFFICE DEPOT, INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**Estimates and Assumptions:** Preparation of these Consolidated Financial Statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect amounts reported in the Consolidated Financial Statements and related notes. For example, estimates are required for, but not limited to, facility closure costs, asset impairments, fair value measurements, amounts earned under vendor programs, inventory valuation, contingencies and valuation allowances on deferred tax assets. Actual results may differ from those estimates.

**Foreign Currency:** Assets and liabilities of international operations are translated into U.S. dollars using the exchange rate at the balance sheet date. Revenues, expenses and cash flows are translated at average monthly exchange rates. Translation adjustments resulting from this process are recorded in Stockholders' equity as a component of Accumulated other comprehensive income ("OCI").

Monetary assets and liabilities denominated in a currency other than a consolidated entity's functional currency result in transaction gains or losses from the remeasurement at spot rates at the end of the period. Foreign currency gains and losses are recorded in Miscellaneous income, net in the Consolidated Statements of Operations.

**Cash Equivalents:** All short-term highly liquid investments with original maturities of three months or less from the date of acquisition are classified as cash equivalents. Amounts in transit from banks for customer credit card and debit card transactions that process in less than seven days are classified as cash. The banks process the majority of these amounts within one to two business days.

**Cash Management:** Cash management process generally utilizes zero balance accounts which provide for the settlement of the related disbursement accounts and cash concentration on a daily basis. Trade accounts payable and Accrued expenses as of December 29, 2012 and December 31, 2011 included \$53 million and \$50 million, respectively, of amounts not yet presented for payment drawn in excess of disbursement account book balances, after considering existing offset provisions. Approximately \$184 million of Cash and cash equivalents was held outside the United States at December 29, 2012.

**Receivables:** Trade receivables, net, totaled \$521.1 million and \$631.7 million at December 29, 2012 and December 31, 2011, respectively. An allowance for doubtful accounts has been recorded to reduce receivables to an amount expected to be collectible from customers. The allowance recorded at December 29, 2012 and December 31, 2011 was \$22.8 million and \$19.7 million, respectively.

Exposure to credit risk associated with trade receivables is limited by having a large customer base that extends across many different industries and geographic regions. However, receivables may be adversely affected by an economic slowdown in the United States or internationally. No single customer accounted for more than 10% of total sales or receivables in 2012, 2011 or 2010.

Other receivables are \$282.9 million and \$231.1 million as of December 29, 2012 and December 31, 2011, respectively, of which \$155.3 million and \$181.6 million are amounts due from vendors under purchase rebate, cooperative advertising and various other marketing programs.

The Company sells selected accounts receivables on a non-recourse basis to an unrelated financial institution under a factoring agreement in France. The Company accounts for this transaction as a sale of receivables, removes receivables sold from its financial statements, and records cash proceeds when received by the Company as cash provided by operating activities in the Statements of Cash Flows. The financial institution makes available 80% of the face value of the receivables to the Company and retains the remaining 20% as a guarantee until the receipt of the proceeds associated with the factored invoices. In 2012, the Company activated the arrangement by selling receivables, approximately \$53 million of which was settled in cash and \$96 million as non-cash transactions. As of December 29, 2012, a retention guarantee of \$12.7 million and a receivable from the financial institution related to factored receivables of \$50.9 million are included in Prepaid expenses and other current assets and Receivables, respectively.

#### OFFICE DEPOT, INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**Inventories**: Inventories are stated at the lower of cost or market value and are reduced for inventory losses based on physical counts. In-bound freight is included as a cost of inventories. Also, cash discounts and certain vendor allowances that are related to inventory purchases are recorded as a product cost reduction. The weighted average method is used to determine the cost of inventory in North America and the first-in-first-out method is used for inventory held within the international operations.

**Prepaid Expenses:** At December 29, 2012 and December 31, 2011, Prepaid expenses and other current assets on the Consolidated Balance Sheets included prepaid expenses of \$116.3 million and \$118.6 million, respectively, relating to short-term advance payments on rent, marketing, services and other matters.

**Income Taxes**: Income tax expense is recognized at applicable United States or international tax rates. Certain revenue and expense items may be recognized in one period for financial statement purposes and in a different period's income tax return. The tax effects of such differences are reported as deferred income taxes. Valuation allowances are recorded for periods in which realization of deferred tax assets does not meet a more likely than not standard. Refer to Note F for additional information on deferred income taxes.

**Property and Equipment**: Property and equipment additions are recorded at cost. Depreciation and amortization is recognized over their estimated useful lives using the straight-line method. The useful lives of depreciable assets are estimated to be 15-30 years for buildings and 3-10 years for furniture, fixtures and equipment. Computer software is amortized over three years for common office applications, five years for larger business applications and seven years for certain enterprise-wide systems. Leasehold improvements are amortized over the shorter of the estimated economic lives of the improvements or the terms of the underlying leases, including renewal options considered reasonably assured. The Company capitalizes certain costs related to internal use software that is expected to benefit future periods. These costs are amortized using the straight-line method over the expected life of the software, which are estimated to be 3-7 years.

**Goodwill and Other Intangible Assets:** Goodwill represents the excess of the cost of an acquisition over the value assigned to net tangible and identifiable intangible assets of the business acquired. The Company assesses possible goodwill impairment annually in the fourth quarter, or sooner if indications of possible impairment are identified. The Company elected to perform a quantitative test of goodwill for 2012 and no impairment was identified. This test compares the book value of net assets to the fair value of the reporting units. If the fair value is determined to be less than the book value, a second step is performed to compute the amount of impairment as the difference between the estimated fair value of goodwill and the carrying value. The fair value of the reporting units with goodwill were estimated using a discounted cash flow analysis and certain market information. This method of estimating fair value requires assumptions, judgments and estimates of future performance.

Unless conditions warrant earlier action, intangible assets with indefinite lives also are assessed annually for impairment during the fourth quarter. The Company elected to perform a quantitative test of its indefinite life intangible asset for 2012 and no impairment was identified. The test was based on a discounted cash flow approach. Cost of other intangible assets are amortized over their estimated useful lives. Amortizable intangible assets are periodically reviewed to determine whether events and circumstances warrant a revision to the remaining period of amortization. During 2012, a charge of approximately \$14 million was recognized related to impairment of amortizing intangible assets. Refer to Note I for additional discussion.

**Impairment of Long-Lived Assets:** Long-lived assets with identifiable cash flows are reviewed for possible impairment annually or whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Impairment is assessed at the individual store level which is the lowest level of identifiable cash flows, and considers the estimated undiscounted cash flows over the asset's remaining life. If estimated undiscounted cash flows are insufficient to recover the investment, an impairment loss is recognized equal to the estimated fair value of the asset less its carrying value and any costs of disposition, net of salvage value. The fair value estimate is generally the discounted amount of estimated store-specific cash flows. Impairment losses of \$124.2 million, \$11.4 million and \$2.3 million were recognized in 2012, 2011 and 2010, respectively. Because of the significance, the 2012 and 2011 amounts are included in Asset impairments in the Consolidated Statements of Operations. These impairment losses relate to certain under-performing retail stores and changes in assumptions following the Company's adoption in the third quarter of 2012 of the North American Retail Division retail strategy ("NA Retail Strategy"). Refer to Note I for additional discussion.

**Facility Closure Costs:** Store performance is regularly reviewed against expectations and stores not meeting performance requirements may be closed. Costs associated with store or other facility closures, principally accrued lease costs, are recognized when the facility is no longer used in an operating capacity or when a liability has been incurred. Store assets are also reviewed for possible impairment, or reduction of estimated useful lives.

Accruals for facility closure costs are based on the future commitments under contracts, adjusted for assumed sublease benefits and discounted at the Company's risk-adjusted rate at the time of closing. Additionally, the Company recognizes charges to terminate existing commitments and charges or credits to adjust remaining closed facility accruals to reflect current expectations. Refer to Note B for additional information on accrued balance relating to future commitments under operating leases for closed facilities. The short-term and long-term components of this liability are included in Accrued expenses and other current liabilities, respectively, on the Consolidated Balance Sheets.

Accrued Expenses: Included in Accrued expenses and other current liabilities in the Consolidated Balance Sheets are accrued payroll-related amounts of approximately \$203.8 million and \$262 million at December 29, 2012 and December 31, 2011, respectively.

**Fair Value of Financial Instruments:** The estimated fair values of financial instruments recognized in the Consolidated Balance Sheets or disclosed within these Notes to Consolidated Financial Statements have been determined using available market information, information from unrelated third-party financial institutions and appropriate valuation methodologies, primarily discounted projected cash flows. Considerable judgment is required when interpreting market information and other data to develop estimates of fair value. Refer to Note I for additional information on fair value.

**Revenue Recognition:** Revenue is recognized at the point of sale for retail transactions and at the time of successful delivery for contract, catalog and Internet sales. Sales taxes collected are not included in reported sales. The Company uses judgment in estimating sales returns, considering numerous factors including historical sales return rates. The Company also records reductions to revenue for customer programs and incentive offerings including special pricing agreements, certain promotions and other volume-based incentives. Revenue from sales of extended warranty service plans is either recognized at the point of sale or over the warranty period, depending on the determination of legal obligor status. All performance obligations and risk of loss associated with such contracts are transferred to an unrelated third-party administrator at the time the contracts are sold. Costs associated with these contracts are recognized in the same period as the related revenue.

A liability for future performance is recognized when gift cards are sold and the related revenue is recognized when gift cards are redeemed as payment for the products. The Company recognizes as revenue the unused portion of the gift card liability when historical data indicates that additional redemption is remote.

Franchise fees, royalty income and the sales of products to franchisees and licensees, which currently are not significant, are included in Sales, while product costs are included in Cost of goods sold and occupancy costs in the Consolidated Statements of Operations.

**Cost of Goods Sold and Occupancy Costs:** The Company includes in Cost of goods sold and occupancy costs, inventory costs (as discussed above), outbound freight, receiving, distribution, and occupancy costs of inventory-holding and selling locations.

Shipping and Handling Fees and Costs: Income generated from shipping and handling fees is recorded in Sales for all periods presented. Shipping and handling costs are included in Cost of goods sold and occupancy costs.

**Operating and Selling Expenses:** This caption includes employee payroll and benefits and other operating costs incurred relating to selling activities, advertising expenses and accretion, gains and losses relating to closed facilities. Asset impairments have been presented separately on the Consolidated Statements of Operations.

**General and Administrative Expenses:** General and administrative expenses include, employee payroll and benefits, as well as other expenses for executive management and various staff functions, such as information technology, most human resources functions, finance, legal, internal audit, and certain merchandising and product development functions. Gains and losses relating to assets used to support these functions, as well as certain charges related to Company-directed activities are included in this caption. General and administrative expenses are included in determination of Division operating income to the extent those costs are considered to be directly or closely related to segment activity and through allocation of support costs.

**Advertising:** Advertising costs are charged either to expense when incurred or, in the case of direct marketing advertising, capitalized and amortized in proportion to the related revenues over the estimated life of the material, which range from several months to up to one year.

Advertising expense recognized was \$402.4 million in 2012, \$434.6 million in 2011 and \$469.5 million in 2010. Prepaid advertising costs were \$27.3 million as of December 29, 2012 and \$28.3 million as of December 31, 2011.

Accounting for Stock-Based Compensation: Stock-based compensation is accounted for using the fair value method of expense recognition. The Company uses the Black-Scholes valuation model and recognize compensation expense on a straight-line basis over the requisite service period of the grant. Alternative models are considered if grants have characteristics that cannot be reasonably estimated using this model.

**Pre-opening Expenses:** Pre-opening expenses related to opening new stores and warehouses or relocating existing stores and warehouses are expensed as incurred and included in Operating and selling expenses.

Self-insurance: Office Depot is primarily self-insured for workers' compensation, auto and general liability and employee medical insurance programs. Self-insurance liabilities are based on claims filed and estimates of claims incurred but not reported. These liabilities are not discounted.

**Comprehensive Income (Loss):** Comprehensive income (loss) represents the change in stockholders' equity from transactions and other events and circumstances arising from non-stockholder sources. Comprehensive income consists of net earnings (loss), foreign currency translation adjustments, deferred pension gains (losses), and elements of qualifying cash flow hedges. Because of valuation allowances in U.S. and several international taxing jurisdictions, these items generally have little or no tax impact. The component balances are net of immaterial tax impacts, where applicable. As of December 29, 2012, and December 31, 2011, the Consolidated Balance Sheet reflected Accumulated OCI in the amount of \$212.7 million and \$194.5 million, which consisted of \$216.0 million and \$192.5 million in foreign currency translation adjustments, \$0.6 million and \$3.0 million in unamortized gain on hedge and \$3.9 million and \$1.0 million in deferred pension loss, respectively. During 2012, approximately \$3.3 million of the cumulative translation adjustment balance was recognized upon disposition of an international subsidiary. Additionally, the cumulative translation adjustment balance was reduced by \$4.7 million in 2012 as a result of providing U.S. deferred taxes on certain foreign earnings following a change in the Company's permanent reinvestment assertion for the related entity. Refer to Note F for additional discussion of income taxes.

**Vendor Arrangements:** The Company enters into arrangements with substantially all significant vendors that provide for some form of consideration to be received from the vendors. Arrangements vary, but some specify volume rebate thresholds, advertising support levels, as well as terms for payment and other administrative matters. The volume-based rebates, supported by a vendor agreement, are estimated throughout the year and reduce the cost of inventory and cost of goods sold during the year. This estimate is regularly monitored and adjusted for current or anticipated changes in purchase levels and for sales activity. Other promotional consideration received is event-based or represents general support and is recognized as a reduction of Cost of goods sold and occupancy costs or Inventory, as appropriate based on the type of promotion and the agreement with the vendor. Some arrangements may meet the specific, incremental, identifiable criteria that allow for direct operating expense offset, but such arrangements are not significant.

**New Accounting Standards:** Effective for the first quarter of 2013, a new accounting standard will require disclosure of amounts reclassified out of comprehensive income by component. In addition, companies will be required to present, either on the face of financial statements or in a single note, significant amounts reclassified out of accumulated other comprehensive income and the income statement line item affected by the reclassification.

Effective for the first quarter of 2014, a new accounting standard will require disclosure of information about the effect or potential effect of financial instrument netting arrangements on the Company's financial position. Companies will be required to present both net (offset amounts) and gross information in the notes to the financial statements for relevant assets and liabilities that are offset. This standard was further clarified to apply to specified financial instruments subject to master netting agreements.

Including the above, there are no recently issued accounting standards that are expected to have a material effect on the Company's financial condition, results of operations or cash flows.

# NOTE B - SEVERANCE AND FACILITY CLOSURE COSTS

In recent years, the Company has taken actions to adapt to changing and increasingly competitive conditions in the markets in which the Company serves. These actions include closing stores and distribution centers, consolidating functional activities, disposing of businesses and assets, and taking actions to improve process efficiencies.

Severance and facility closure accruals associated with exit and restructuring-related activities are as follows:

(In millions) 2012	Beginning Balance	Charges Incurred	Cash Payments	Non-cash Settlements and Accretion	Currency and Other Adjustments	Ending Balance
Termination benefits	\$ 12	\$ 26	\$ (33)	\$ —	\$ 1	\$6
Lease, contract obligations and, other costs	95	21	(48)	8	1	77
Total	\$ 107	\$ 47	\$ (81)	\$8	\$2	\$ 83
2011						
Termination benefits	\$4	\$ 25	\$ (17)	\$ —	\$ —	\$ 12
Lease, contract obligations and, other costs	113	26	(59)	12	3	95
Total	<u>\$ 117</u>	\$ 51	\$ (76)	<u>\$ 12</u>	\$ 3	\$ 107

The charges incurred are presented in the following captions of the Consolidated Statements of Operations.

(In millions)	2012	2011	2010
Cost of goods sold and occupancy costs	<u>\$</u>	\$ 1	\$—
Operating and selling expenses	21	25	14
General and administrative expenses	26	25	22
es incurred are recognized in Divisions as presented below			

The charges incurred are recognized in Divisions as presented below.

(In millions)	2012	2011	2010
North American Retail Division	\$ 3	\$14	\$ 2
North America Business Solutions Division	5	5	1
International Division	38	29	23
Corporate level	1	3	10

Severance costs usually require cash payment within one year of expense recognition. Facility closure costs usually require cash payments over the related lease contract period or until the lease is terminated. The Company maintains accruals for facilities closed that are considered part of operating activities. Accrual for facilities closed for 2012 and 2011 totaled \$10 million and \$14 million, respectively. Closure costs and accretion totaled \$4 million and \$1 million in 2012 and 2011, respectively. Cash payments of \$8 million and \$7 were made in 2012 and 2011, respectively.

# NOTE C – PROPERTY AND EQUIPMENT

Property and equipment consisted of:

(In thousands)	December 29, 2012	December 31, 2011
Land	\$ 31,430	\$ 34,258
Buildings	290,153	335,862
Leasehold improvements	746,909	998,736
Furniture, fixtures and equipment	1,337,612	1,547,659
	2,406,104	2,916,515
Less accumulated depreciation	(1,549,763)	(1,849,475)
Total	\$ 856,341	\$ 1,067,040

The above table of property and equipment includes assets held under capital leases as follows:

(In thousands)	December 29, 2012	December 31, 2011
Buildings	\$ 228,392	\$ 266,992
Furniture, fixtures and equipment	57,565	53,924
	285,957	320,916
Less accumulated depreciation	(106,720)	(112,250)
Total	\$ 179,237	\$ 208,666

Depreciation expense was \$152.1 million in 2012, \$161.0 million in 2011, and \$163.2 million in 2010. Refer to Note I for additional information on asset impairment charges.

Included in \$1,337.6 million above, are capitalized software costs of \$398.0 million and \$378.8 million at December 29, 2012 and December 31, 2011, respectively. The unamortized amounts of the capitalized software costs are \$165.7 million and \$177.9 million at December 29, 2012 and December 31, 2011, respectively. Amortization of capitalized software costs totaled \$46.2 million, \$45.2 million and \$42.2 million in 2012, 2011 and 2010, respectively. Software development costs that do not meet the criteria for capitalization are expensed as incurred.

Estimated future amortization expense for the next five years related to capitalized software at December 29, 2012 is as follows:

(In millions)	
2013	\$49.4
2014	47.8
2015	43.4
2016	18.7
2017	6.3
Thereafter	0.1

The weighted average amortization period for the remaining capitalized software is 3.6 years.

In 2010, the Company recognized a \$51.3 million asset impairment associated with the abandonment of a certain capitalized software application. This asset impairment is included in Asset impairments in the Consolidated Statement of Operations.

# NOTE D – GOODWILL AND OTHER INTANGIBLE ASSETS

## Goodwill

The components of goodwill by segment are provided in the following table:

	North American Retail	North American Business Solutions	International	
(In thousands)	Division	Division	Division	Total
Goodwill	\$ 1,842	\$ 367,790	\$ 863,134	\$ 1,232,766
Accumulated impairment losses	(1,842)	(348,359)	(863,134)	(1,213,335)
Balance as of December 25, 2010		19,431		19,431
Goodwill	1,842	367,790	863,134	1,232,766
Accumulated impairment losses	(1,842)	(348,359)	(863,134)	(1,213,335)
Goodwill acquired during the year			45,805	45,805
Foreign currency rate impact			(3,337)	(3,337)
Balance as of December 31, 2011		19,431	42,468	61,899
Goodwill	1,842	367,790	905,602	1,275,234
Accumulated impairment losses	(1,842)	(348,359)	(863,134)	(1,213,335)
Foreign currency rate impact			2,413	2,413
Balance as of December 29, 2012	\$	\$ 19,431	\$ 44,881	\$ 64,312

Refer to Note I for additional discussion of the 2012 goodwill valuation considerations.

#### **Other Intangible Assets**

The carrying value of an indefinite-lived intangible asset related to an acquired trade name was \$5.7 million and \$5.5 million, at December 29, 2012 and December 31, 2011, respectively. The carrying value change during 2012 resulted from changes in foreign currency rates. This intangible asset is included in Other intangible assets in the Consolidated Balance Sheets. Indefinite-lived intangibles are not subject to amortization, but are assessed for impairment at least annually.

Definite-lived intangible assets are reviewed periodically to determine whether events and circumstances warrant a revision to the remaining period of amortization. In the third quarter of 2012, the Company re-evaluated remaining balances of certain amortizing intangible assets associated with a 2011 acquisition in Sweden. An impairment charge of approximately \$14 million was recognized and is presented in Asset impairment in the Consolidated Statements of Operations. Refer to Notes I and P for additional information on the fair value measurement and the acquisition, respectively.

Definite-lived intangible assets, which are included in Other intangible assets in the Consolidated Balance Sheets, are as follows:

		December 29, 2012	
(In thousands)	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Customer lists	\$28,000	\$ (16,864)	\$ 11,136
Other	3,400	(3,400)	
Total	\$31,400	\$ (20,264)	\$ 11,136
		December 31, 2011	
(In thousands)	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Customer lists	\$ 43,972	\$ (16,174)	\$ 27,798
Other	5,868	(3,987)	1,881
Total	\$ 49,840	\$ (20,161)	\$ 29,679

The weighted average amortization period for the remaining finite-lived intangible assets is 4.4 years.

Amortization of intangible assets was \$4.9 million in 2012, \$5.2 million in 2011, and \$2.9 million in 2010 (at average foreign currency exchange rates). For 2012, \$2.6 million and \$2.3 million are included in the Consolidated Statement of Operations in Operating and selling expenses and General and administrative expenses, respectively.

Estimated future amortization expense for the next five years at December 29, 2012 is as follows:

(In thousands)	
2013	\$2,545
2014	2,545
2015	2,545
2016	2,545
2017	2,545 956

### NOTE E – DEBT

Debt consists of the following:

(In thousands)	December 29, 2012	December 31, 2011
Short-term borrowings and current maturities of long-term debt:		
Short-term borrowings	\$ 2,203	\$ 15,057
Capital lease obligations	19,694	18,626
Other current maturities of long-term debt	152,251	2,718
	\$ 174,148	\$ 36,401
Long-term debt, net of current maturities:		
Senior Secured Notes	\$ 250,000	\$ —
Senior Notes	—	399,953
Capital lease obligations	217,884	229,605
Other	17,447	18,755
	\$ 485,331	\$ 648,313

The Company was in compliance with all applicable financial covenants of existing loan agreements at December 29, 2012.

### **Amended Credit Agreement**

On May 25, 2011, the Company entered into a \$1.0 billion Amended and Restated Credit Agreement (the "Amended Credit Agreement") with a group of lenders, most of whom participated in the Company's previously-existing \$1.25 billion Credit Agreement. The Amended Credit Agreement provides for an asset based, multi-currency revolving credit facility (the "Facility"). The Amended Credit Agreement also provides that the Facility may be increased by up to \$250 million, subject to certain terms and conditions, including obtaining increased commitments from existing or new lenders. The amount that can be drawn on the Facility at any given time is determined based on percentages of certain accounts receivable, inventory and credit card receivables (the "Borrowing Base"). At December 29, 2012, the Company was eligible to borrow \$699.4 million of the Facility based on the December Borrowing Base certificate. The Facility includes a sub-facility of up to \$200 million which is available to certain of the Company's European subsidiaries (the "European Borrowers"). Certain of the Company's domestic subsidiaries (the "Domestic Guarantors") guaranty the obligations under the Facility. The Agreement also provides for a letter of credit sub-facility of up to \$325 million. All loans borrowed under the Agreement may be borrowed, repaid and reborrowed from time to time until the maturity date of May 25, 2016.

All amounts borrowed under the Facility, as well as the obligations of the Domestic Guarantors, are secured by a lien on the Company's and such Domestic Guarantors' accounts receivables, inventory, cash, cash equivalents and deposit accounts. All amounts borrowed by the European Borrowers under the Facility are secured by a lien on such European Borrowers' accounts receivable, inventory, cash, cash equivalents and deposit accounts, as well as certain other assets. At the Company's option, borrowings made pursuant to the Facility bear interest at either, (i) the alternate base rate (defined as the higher of the Prime Rate (as announced by the Agent), the Federal Funds Rate plus 1/2 of 1% and the one month Adjusted LIBO Rate (defined below) and 1%) or (ii) the Adjusted LIBO Rate (defined as the LIBO Rate as adjusted for statutory revenues) plus, in either case, a certain margin based on the aggregate average availability under the Facility. The Amended Credit Agreement also contains representations, warranties, affirmative and negative covenants, and default provisions which are conditions precedent to borrowing. The most significant of these covenants and default provisions include limitations in certain circumstances on acquisitions, dispositions, share repurchases and the payment of cash dividends. The Company has never paid a cash dividend on its common stock.

The Facility also includes provisions whereby if the global availability is less than \$150.0 million, or the European availability is below \$37.5 million, the Company's cash collections go first to the agent to satisfy outstanding borrowings. Further, if total availability falls below \$125.0 million, a fixed charge coverage ratio test is required. Any event of default that is not cured within the permitted period, including non-payment of amounts when due, any debt in excess of \$25 million becoming due before the scheduled maturity date, or the acquisition of more than 40% of the ownership of the Company by any person or group, within the meaning of the Securities and Exchange Act of 1934, could result in a termination of the Facility and all amounts outstanding becoming immediately due and payable.

The Amended Credit Agreement also permits the Company to use the Facility to redeem, tender or otherwise repurchase its existing Senior Notes subject to a \$600 million minimum liquidity requirement.

On February 24, 2012, the Company entered into an amendment (the "Amendment") to the Amended Credit Agreement. The Amendment provides the Company flexibility with regard to certain restrictive covenants in any possible refinancing and other transactions. In addition, the Amendment released one of the Company's subsidiaries from its guarantee obligations under the Amended Credit Agreement.

At December 29, 2012, the Company had approximately \$699.4 million of available credit under the Facility. At December 29, 2012, no amounts were outstanding under the Facility. Letters of credit outstanding under the Facility totaled approximately \$90 million. An additional \$0.2 million of letters of credit were outstanding under separate agreements. Average borrowings under the Facility during the periods for which amounts were outstanding in 2012 were approximately \$4.3 million at an average interest rate of 2.6%. The maximum month end amount outstanding during 2012 occurred in February at approximately \$13.2 million.

#### **Senior Secured Notes**

On March 14, 2012, the Company issued \$250 million aggregate principal amount of its 9.75% Senior Secured Notes due March 15, 2019 ("Senior Secured Notes") with interest payable in cash semiannually in arrears on March 15 and September 15 of each year. The Senior Secured Notes are fully and unconditionally guaranteed on a senior secured basis by each of the Company's existing and future domestic subsidiaries that guarantee the Amended Credit Agreement. The Senior Secured Notes are secured on a first-priority basis by a lien on substantially all of the Company's domestic subsidiaries' present and future assets, other than assets that secure the Amended Credit Agreement, and certain of their present and future equity interests in foreign subsidiaries. The Senior Secured Notes are secured on a second-priority basis by a lien on the Company and its domestic subsidiaries' assets that secure the Amended Credit Agreement. The Senior Secured Notes were issued pursuant to an indenture, dated as of March 14, 2012, among the Company, the domestic subsidiaries named therein and U.S. Bank National Association, as trustee (the "Indenture"). Approximately \$7 million was capitalized associated with the issuance of the Senior Secured Notes and will be amortized through 2019.

The terms of the Indenture provide that, among other things, the Senior Secured Notes and guarantees will be senior secured obligations and will: (i) rank senior in right of payment to any future subordinated indebtedness of the Company and the guarantors; (ii) rank equally in right of payment with all of the existing and future senior indebtedness of the Company and the guarantors; (iii) rank effectively junior to all existing and future indebtedness under the Amended Credit Agreement to the extent of the value of certain collateral securing the Facility on a first-priority basis, subject to certain exceptions and permitted liens; (iv) rank effectively senior to all existing and future indebtedness under the Amended Credit Agreement to the extent of the value of certain collateral securing the Facility on a first-priority basis, subject to certain collateral securing the Senior Secured Notes; and (v) be structurally subordinated in right of payment to all existing and future indebtedness and liabilities owed to the Company or one of the guarantors).

The Indenture contains affirmative and negative covenants that, among other things, limit or restrict the Company's ability to: incur additional debt or issue stock, pay dividends, make certain investments or make other restricted payments; engage in sales of assets; and engage in consolidations, mergers and acquisitions. However, many of these currently active covenants will cease to apply for so long as the Company receives and maintains investment grade ratings from specified debt rating services and there is no default under the Indenture. There are no maintenance financial covenants.

The Senior Secured Notes may be redeemed by the Company, in whole or in part, at any time prior to March 15, 2016 at a price equal to 100% of the principal amount plus a make-whole premium as of the redemption date and accrued and unpaid interest. Thereafter, the Senior Secured Notes carry optional redemption features whereby the Company has the redemption option prior to maturity at par plus a premium beginning at 104.875% at March 15, 2016 and declining ratably to par at March 15, 2018 and thereafter, plus accrued and unpaid interest. Should the Company sell its ownership interest in Office Depot de Mexico, S.A., it would be required to offer to repurchase an aggregate amount of Notes at least equal to 60% of the net proceeds of such sale at 100% of par plus accrued and unpaid interest.

Additionally, on or prior to March 15, 2015, the Company may redeem up to 35% of the aggregate principal amount of the Senior Secured Notes with the net cash proceeds from certain equity offerings at a redemption price equal to 109.750% of the principal amount of the Senior Secured Notes redeemed plus accrued and unpaid interest to the redemption date; and, upon the occurrence of a change of control, holders of the Senior Secured Notes may require the Company to repurchase all or a portion of the Senior Secured Notes in cash at a price equal to 101% of the principal amount to be repurchased plus accrued and unpaid interest to the repurchase date. Change of control, as defined in the Indenture, is a transfer of all or substantially all of the assets of Office Depot, acquisition of more than 50% of the voting power of Office Depot by a person or group, or members of the Office Depot Board of Directors as previously approved by the stockholders of Office Depot ceasing to constitute a majority of the Office Depot Board of Directors.

#### **Senior Notes**

In August 2003, the Company issued \$400 million senior notes ("Senior Notes") which bear interest at the rate of 6.25% per year, and because of amortization of a terminated treasury rate lock, have an effective interest rate of 5.86%. The notes contain provisions that could, in certain circumstances, place financial restrictions or limitations on the Company.

On March 15, 2012, the Company repurchased \$250 million aggregate principal amount of its outstanding Senior Notes under a cash tender offer. The total consideration for each \$1,000.00 note surrendered was \$1,050.00. Tender fees and a proportionate amount of deferred debt issue costs and a deferred cash flow hedge gain were included in the measurement of the \$12.1 million extinguishment costs reported in the Consolidated Statements of Operations for 2012. The cash amounts of the premium paid and tender fees are reflected as financing activities in the Consolidated Statements of Cash Flows. Accrued interest was paid through the extinguishment date.

The remaining \$150 million outstanding Senior Notes is due in August 2013 and is classified as a current liability in the Consolidated Balance Sheet as of December 29, 2012.

#### **Short-Term Borrowing**

The Company had short-term borrowings of \$2.2 million at December 29, 2012 under various local currency credit facilities for international subsidiaries that had an effective interest rate at the end of the year of approximately 5.8%. The maximum month end amount occurred in July at approximately \$16.1 million and the maximum monthly average amount occurred in August at approximately \$15.8 million. The majority of these short-term borrowings represent outstanding balances on uncommitted lines of credit, which do not contain financial covenants.

# **Capital Lease Obligations**

Capital lease obligations primarily relate to buildings and equipment.

Aggregate annual maturities of long-term debt and capital lease obligations are as follows:

(In thousands)	
2013	\$ 191,026
2014	38,061
2015	37,606
2016	31,315
2017	30,888
Thereafter	443,588
Total	772,484
Less amount representing interest on capital leases	(113,005)
Total	659,479
Less current portion	(174,148)
Total long-term debt	\$ 485,331

# NOTE F – INCOME TAXES

The income tax expense (benefit) related to earnings (loss) from operations consisted of the following:

(In thousands)	2012	2011	2010
Current:			
Federal	\$(13,819)	\$(59,504)	\$(28,278)
State	902	(3,625)	1,408
Foreign	13,795	15,023	849
Deferred :			
Federal	(4,700)	—	_
State	33	33	(64)
Foreign	5,486	(14,999)	15,615
Total income tax expense (benefit)	\$ 1,697	\$(63,072)	\$(10,470)

The components of earnings (loss) before income taxes consisted of the following:

<u>(In thousands)</u> North America	<u>2012</u> \$(129,310)	2011 \$ (4,131)	2010 \$(114,231)
International	53,887	36,750	57,556
Total	\$ (75,423)	\$32,619	\$ (56,675)

The components of deferred income tax assets and liabilities consisted of the following:

(In thousands)	December 29, 2012	December 31, 2011
U.S. and foreign net operating loss carryforwards	\$ 366,927	\$ 379,610
Deferred rent credit	95,220	101,679
Vacation pay and other accrued compensation	61,356	78,797
Accruals for facility closings	21,027	32,800
Inventory	14,406	13,562
Self-insurance accruals	19,374	20,640
Deferred revenue	6,613	5,893
State credit carryforwards, net of Federal benefit	8,278	13,643
Allowance for bad debts	2,727	2,911
Accrued rebates	121	7,978
Basis difference in fixed assets	39,762	
Other items, net	64,230	46,713
Gross deferred tax assets	700,041	704,226
Valuation allowance	(583,172)	(621,719)
Deferred tax assets	116,869	82,507
Internal software	2,799	4,216
Basis difference in fixed assets	_	32,055
Deferred Subpart F income	10,791	10,791
Undistributed foreign earnings	72,345	
Deferred tax liabilities	85,935	47,062
Net deferred tax assets	\$ 30,934	\$ 35,445

For financial reporting purposes, a jurisdictional netting process is applied to deferred tax assets and deferred tax liabilities, resulting in the balance sheet classification shown below.

( <u>In thousands)</u> Deferred tax assets:	Dee	cember 29, 2012	De	cember 31, 2011
Included in Prepaid and other current assets	\$	36,725	\$	29,592
Deferred income taxes – noncurrent		33,421		47,791
Deferred tax liabilities:				
Included in Accrued expenses and other current liabilities		4,711		12,558
Included in Deferred income taxes and other long-term liabilities		34,501		29,380
Net deferred tax asset	\$	30,934	\$	35,445

As of December 29, 2012, the Company had approximately \$229 million of U.S. Federal, \$833 million of foreign, and \$1.2 billion of state net operating loss carryforwards. The U.S. Federal carryforward will expire between 2030 and 2032. Of the foreign carryforwards, \$623 million can be carried forward indefinitely, \$29 million will expire in 2013, and the remaining balance will expire between 2014 and 2032. Of the state carryforwards, \$7 million will expire in 2013, and the remaining balance will expire between 2014 and 2032. Of the state carryforwards, \$7 million will expire in 2013, and the remaining balance will expire between 2014 and 2032. In Company has not triggered any provision, similar to the U.S. IRS Federal Section 382, limiting the use of the Company's net operating loss carryforwards and deferred tax assets as of December 29, 2012. If the Company were to become subject to such provisions in future periods, the Company's income tax expense may be negatively impacted.

Additionally, as a result of the settlement of an audit with a foreign taxing authority, the Company has conceded net operating loss carryforwards of \$56 million and the previously disclosed \$1.73 billion of foreign capital loss carryforwards (\$454 million tax-effected) that resulted from a 2010 internal restructuring transaction. Both of these deferred tax attributes were fully offset by valuation allowance prior to the settlement. Under the tax laws of the jurisdiction, the capital loss carryforward was limited to only offset a future capital gain resulting from an intercompany transaction between the specific subsidiaries of the Company involved in the 2010 transaction. Because the Company believed that it was remote that the capital loss carryforward would be realized in the foreseeable future, a full valuation allowance had been established against the asset and the Company had excluded the attribute from the above tabular renditions of deferred tax assets and liabilities.

U.S. income taxes have not been provided on certain undistributed earnings of foreign subsidiaries, which were approximately \$451 million as of December 29, 2012. The Company has historically reinvested such earnings overseas in foreign operations indefinitely and expects that future earnings will also be reinvested overseas indefinitely except as follows. In the fourth quarter of 2012, the Company concluded that it could no longer assert that foreign earnings of the Office Depot de Mexico joint venture would remain permanently reinvested, and therefore has established a deferred tax liability on the excess financial accounting value as of December 29, 2012 over the tax basis of the investment. Concurrently, as a result of the additional source of future taxable income represented by the newly established deferred tax liability, the Company concluded that valuation allowances attributable to U.S. Federal net operating loss carryforwards equal in value to the basis differential in the investment should be removed, as the Company believes that these assets will more likely than not be realized in a future period. As a result of the Company incurring a pre-tax loss and recognizing current-year benefits to its cumulative translation account attributable to its investment in the joint venture, the Company recorded an approximate net \$5 million deferred tax benefit from the release of the valuation allowance.

Valuation allowances have been established to reduce deferred asset to an amount that is more likely than not to be realized and is based upon the uncertainty of the realization of certain deferred tax assets related to net operating loss carryforwards and other tax attributes. Because of the downturn in the Company's performance associated with recessionary economic conditions, as well as the significant restructuring activities and charges the Company has taken in response, the Company has established valuation allowances against significant portions of its domestic and foreign deferred tax assets. The establishment of valuation allowances requires significant judgment and is impacted by various estimates. Both positive and negative evidence, as well as the objectivity and verifiability of that evidence, is considered in determining the appropriateness of recording a valuation allowance on deferred tax assets. An accumulation of recent pre-tax losses is considered strong negative evidence in that evaluation. While the Company believes positive evidence exists with regard to the realizability of these deferred tax assets, it is not considered sufficient to outweigh the objectively verifiable negative evidence, including the cumulative 36 month pre-tax loss history. Valuation allowances in certain foreign jurisdictions were removed during 2010 and 2011 because sufficient positive financial information existed, resulting in tax benefit recognition of \$10 million and \$9 million, respectively. In 2012, additional valuation allowances were established in certain other foreign jurisdictions because realizability of the related deferred tax assets was no longer more likely than not. Deferred tax assets without valuation allowances remain in certain foreign tax jurisdictions where supported by the evidence.

(In millions) Valuation allowances at:	Beginning Balance	Additions	Deductions	Ending Balance
December 29, 2012	\$ 621.7	\$ —	\$ (38.5)	\$583.2
December 31, 2011	\$ 648.9	\$ —	\$ (27.2)	\$621.7

In addition to the \$583.2 million valuation allowance as of December 29, 2012, the Company has an additional \$5 million tax effected net operating loss carryforward assets generated from equity compensation deductions that if realized in future periods would benefit additional paid-in capital.

The following is a reconciliation of income taxes at the Federal statutory rate to the provision (benefit) for income taxes:

(In thousands)	2012	2011	2010
Federal tax computed at the statutory rate	\$(26,398)	\$ 11,417	\$(19,836)
State taxes, net of Federal benefit	709	1,417	1,434
Foreign income taxed at rates other than Federal	(14,889)	(22,290)	(15,926)
Increase (reduction) in valuation allowance	(8,662)	(7,927)	29,777
Non-deductible foreign interest	9,863	11,818	5,094
Change in uncertain tax positions	1,342	(77,085)	(32,283)
Tax expense from intercompany transactions	1,886	4,955	1,090
Subpart F income		10,101	_
Change in tax rate	1,816	1,529	—
Non-taxable return of purchase price	(22,361)		_
Outside basis difference of foreign joint venture	67,645		
Tax accounting method change ruling	(15,548)		—
Disposition of foreign affiliates	223		(8,562)
Gain on intercompany sale	—	—	20,216
Other items, net	6,071	2,993	8,526
Income tax expense (benefit)	\$ 1,697	\$(63,072)	\$(10,470)

The Company has reached a tentative settlement with the U.S. Internal Revenue Service ("IRS") Appeals Division to close the previously-disclosed IRS deemed royalty assessment relating to foreign operations. The settlement is subject to the Congressional Joint Committee on Taxation approval which is anticipated in 2013. The resolution of this matter will close all known disputes with the IRS relating to 2009 and 2010. The Company has included the settlement in its assessment of uncertain tax positions at December 29, 2012, as provided below. Additionally, the 2012 tax rate includes an accrued benefit based on a ruling from the IRS allowing the Company to amend the 2009 tax year to make certain tax accounting method changes previously reflected in the 2010 tax year and to file an additional claim for refund for the incremental 2009 tax loss. The net result of the tax ruling and the Company's settlement with the IRS Appeals Division will result in the receipt of approximately \$14 million, which the Company expects to receive after the Congressional Joint Committee on Taxation review.

The 2012 effective tax rate also includes the benefit from the Recovery of purchase price that is treated as a purchase price adjustment for tax purposes. As discussed in Note H, this recovery would have been a reduction of related goodwill for financial reporting purposes, but the related goodwill was impaired in 2008.

The significant tax jurisdictions related to the line item foreign income taxed at rates other than Federal include the UK, the Netherlands and France.

The following table summarizes the activity related to uncertain tax positions:

(In thousands)	2012	2011	2010
Beginning balance	\$ 6,527	\$ 110,540	\$141,125
Additions based on tax positions related to the current year	_		3,436
Additions for tax positions of prior years	2,907	471,081	24,936
Reductions for tax positions of prior years	(829)	(40,083)	(32,572)
Statute expirations	_	(60,131)	(17)
Settlements	(4,053)	(474,880)	(26,368)
Ending balance	\$ 4,552	\$ 6,527	\$110,540

Included in the balance of \$4.6 million at December 29, 2012, are \$2.8 million of net uncertain tax positions that, if recognized, would affect the effective tax rate. The difference of \$1.8 million primarily results from positions which if sustained would be fully offset by a change in valuation allowance.

The Company files a U.S. federal income tax return and other income tax returns in various states and foreign jurisdictions. With few exceptions, the Company is no longer subject to U.S. federal, state and local income tax examinations for years before 2009. As discussed above, U.S. federal filings for 2009 and 2010 are awaiting final resolution from the IRS Appeals Division. The 2011 IRS Examination has been completed, and pending the final resolution of the tentative settlement with the IRS Appeals Division for 2009 and 2010 the IRS has made a deemed royalty assessment of \$12.4 million (\$4.3 million tax-effected) relating to 2011 foreign operations. The Company disagrees with this assessment and believes that no uncertain tax position accrual is required as of December 29, 2012. Additionally, the U.S. federal tax return for 2012 is under concurrent year review, and it is reasonably possible that the audits for one or more of these periods will be closed prior to the end of 2013. Significant international tax jurisdictions. It is reasonably possible that certain of these audits will close within the next 12 months, which the Company does not believe would result in a material change in its accrued uncertain tax positions. Additionally, the Company anticipates that it is reasonably possible that new issues will be raised or resolved by tax authorities that may require changes to the balance of unrecognized tax benefits, however, an estimate of such changes cannot reasonably be made.

The Company recognizes interest related to unrecognized tax benefits in interest expense and penalties in the provision for income taxes. Because of the expiration of statute and settlement reached with certain taxing authorities, net interest credits of \$30.4 million in 2011 and \$6.7 million in 2010 were recognized. The Company recognized expense from interest of approximately \$1.9 million in 2012. The Company had approximately \$8.8 million accrued for the payment of interest and penalties as of December 29, 2012.

In connection with the expensing of the fair value of employee stock options, the Company has elected to calculate the pool of excess tax benefits under the alternative or "short-cut" method. At adoption, this pool of benefits was approximately \$55.3 million and was approximately \$100.7 million as of December 29, 2012. This pool may increase in future periods if tax benefits realized are in excess of those based on grant date fair values or may decrease if used to absorb future tax deficiencies determined for financial reporting purposes.

## NOTE G - COMMITMENTS AND CONTINGENCIES

**Operating Leases:** The Company leases retail stores and other facilities and equipment under operating lease agreements. Facility leases typically are for a fixed non-cancellable term with one or more renewal options. In addition to minimum rentals, there are certain executory costs such as real estate taxes, insurance and common area maintenance on most of the facility leases. Many lease agreements contain tenant improvement allowances, rent holidays, and/or rent escalation clauses. For purposes of recognizing incentives and minimum rental expenses on a straight-line basis over the terms of the leases, the Company uses the date of initial possession to begin amortization.

Deferred rent liability for tenant improvement allowances and rent holidays are recognized and amortized over the terms of the related leases as a reduction of rent expense. Rent related accruals totaled approximately \$262.7 million and \$254 million at December 29, 2012 and December 31, 2011, respectively. The short-term and long-term components of these liabilities are included in Accrued expenses and Other long-term liabilities, respectively, on the Consolidated Balance Sheets. For scheduled rent escalation clauses during the lease terms or for rental payments commencing at a date other than the date of initial occupancy, the Company records minimum rental expenses on a straight-line basis over the terms of the leases.

Certain leases contain provisions for additional rent to be paid if sales exceed a specified amount, though such payments have been immaterial during the years presented.

Future minimum lease payments due under the non-cancelable portions of leases as of December 29, 2012 include facility leases that were accrued as store closure costs and are as follows.

	105 100
2013 \$ 4	467,126
2014	400,317
2015 3	325,509
2016	246,738
2017	178,929
Thereafter 5	533,054
2,1	151,673
Less sublease income	48,389
Total \$2,1	103,284

Rent expense, including equipment rental, was \$429.0 million, \$447.1 million and \$469.4 million in 2012, 2011, and 2010, respectively. Rent expense was reduced by sublease income of \$4.6 million in 2012, \$3.0 million in 2011 and \$2.8 million in 2010.

**Legal Matters:** The Company is involved in litigation arising in the normal course of business. While, from time to time, claims are asserted that make demands for a large sum of money (including, from time to time, actions which are asserted to be maintainable as class action suits), the Company does not believe that contingent liabilities related to these matters (including the matters discussed below), either individually or in the aggregate, will materially affect the Company's financial position, results of operations or cash flows.

In addition, in the ordinary course of business, sales to and transactions with government customers may be subject to lawsuits, investigations, audits and review by governmental authorities and regulatory agencies, with which the Company cooperates. Many of these lawsuits, investigations, audits and reviews are resolved without material impact to the Company. While claims in these matters may at times assert large demands, the Company does not believe that contingent liabilities related to these matters, either individually or in the aggregate, will materially affect our financial position, results of our operations or cash flows. In addition to the foregoing, State of California et. al. ex. rel. David Sherwin v. Office Depot was filed in Superior Court for the State of California, Los Angeles County, and unsealed on October 19, 2012. This lawsuit relates to allegations regarding certain pricing practices in California under a now expired agreement that was in place between January 2, 2006 and January 1, 2011, pursuant to which state, local and non-profit agencies purchased office supplies (the "Purchasing Agreement") from us. This action seeks as relief monetary damages. This lawsuit, which is now pending in the United States District Court for the Central District of California after a Notice of Removal filed by the Company. We believe that adequate provisions have been made for probable losses on one claim in this matter and such amounts are not material. However, in light of the early stages of the other claims and the inherent uncertainty of litigation, we are unable to reasonably determine the full effect of the potential liability in the matter. Office Depot intends to vigorously defend itself in this lawsuit and filed motions to dismiss. Additionally, during the first quarter of 2011, we were notified that the United States Department of Justice ("DOJ") commenced an investigation into certain pricing practices related to the Purchasing Agreement. We have cooperated with the DOJ on this matter.

## NOTE H – EMPLOYEE BENEFIT PLANS

# Long-Term Incentive Plan

During 2007, the Company's Board of Directors adopted, and the shareholders approved, the Office Depot, Inc. 2007 Long-Term Incentive Plan (the "Plan"). The Plan permits the issuance of stock options, stock appreciation rights, restricted stock, restricted stock units, performance-based, and other equity-based incentive awards. The option exercise price for each grant of a stock option shall not be less than 100% of the fair market value of a share of common stock on the date the option is granted. Options granted under the Plan become exercisable from one to five years after the date of grant, provided that the individual is continuously employed with the Company. All options granted expire no more than ten years following the date of grant. Employee share-based awards are generally issued in the first quarter of the year.

### Long-Term Incentive Stock Plan

During 2010, the Company implemented a one-time voluntary stock option exchange program that had been approved by the Company's Board of Directors and the shareholders. The fair value exchange program resulted in the tender of 3.8 million shares of eligible options in exchange for approximately 1.4 million of newly-issued options. No additional compensation expense resulted from this value-for-value exchange; however, the remaining unamortized compensation expense was subject to amortization over the three year vesting period. The new options have an exercise price of \$5.13, which was the closing price of Office Depot, Inc. common stock on the date of the exchange. The fair value of the exchanged shares was \$2.97 per share. The new options are listed separately in the tables below.

A summary of the activity in the stock option plans for the last three years is presented below.

	2012		2011		2010	
	Shares	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
Outstanding at beginning of year	19,059,176	\$ 6.90	20,021,044	\$ 7.49	24,202,715	\$ 11.81
Granted	82,000	3.22	3,680,850	4.53	5,140,900	8.11
Granted – option exchange	_				1,350,709	5.13
Cancelled	(4,512,372)	14.51	(3,567,513)	9.46	(4,510,682)	21.57
Cancelled – option exchange	—	—	—	—	(3,739,557)	22.85
Exercised	(2,050,733)	0.88	(1,075,205)	0.86	(2,423,041)	0.95
Outstanding at end of year	12,578,071	\$ 5.25	19,059,176	\$ 6.90	20,021,044	\$ 7.49

The weighted-average grant date fair values of options granted during 2012, 2011, and 2010 were \$1.86, \$2.25, and \$3.89, respectively, using the following weighted average assumptions for grants:

- Risk-free interest rates of 0.94% for 2012, 1.97% for 2011, and 2.32% for 2010
- Expected lives of 4.5 years for all three years
- A dividend yield of zero for all three years
- Expected volatility ranging from 72% to 74% for 2012, 67% to 77% for 2011, and 64% to 73% for 2010
- Forfeitures are anticipated at 5% and are adjusted for actual experience over the vesting period

The following table summarizes information about options outstanding at December 29, 2012.

	Options Outstanding				Options Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price
\$0.85 \$5.12	6,936,143	3.82	\$ 2.11	5,105,443	3.36	\$ 1.44
5.13 (option exchange)	739,478	3.48	5.13	541,019	3.14	5.13
5.14 10.00	3,790,993	3.55	7.65	2,676,641	3.09	7.83
10.01 15.00	751,659	1.17	11.31	751,659	1.17	11.31
15.01 25.00	87,501	0.61	17.45	87,501	0.61	17.45
25.01 33.61	272,297	1.00	31.44	272,297	1.00	31.44
\$0.85 \$33.61	12,578,071	3.48	\$ 5.25	9,434,560	3.00	\$ 5.26

The intrinsic value of options exercised in 2012, 2011 and 2010, was \$4.0 million, \$3.8 million, and \$11.9 respectively.

As of December 29, 2012, there was approximately \$3.4 million of total stock-based compensation expense that has not yet been recognized relating to nonvested awards granted under option plans. This expense, net of forfeitures, is expected to be recognized over a weighted-average period of approximately 1.25 years. Of the 3.1 million unvested shares, the Company estimates that 3.0 million shares, or 97%, will vest. The number of exercisable shares was 9.4 million shares of common stock at December 29, 2012 and 10.8 million shares of common stock at December 31, 2011.

#### **Restricted Stock and Restricted Stock Units**

Restricted stock grants typically vest annually over a three-year service period; however, share grants made to the Company's Board of Directors vest immediately and are free of restrictions.

In 2012, the Company granted 4.0 million shares of restricted stock and restricted stock units to eligible employees. These grants typically vest one-third annually on the grant date anniversary. Included in the 2012 grant is one award of 500,000 shares that will vest in two equal installments on December 31, 2012 and April 30, 2014. In addition, 336,000 shares were granted to the Board of Directors as part of their annual compensation and vested immediately. A summary of the status of the Company's nonvested shares and changes during 2012, 2011 and 2010 is presented below.

	2012		2011		201	0
		Weighted		Weighted		Weighted
		Average Grant-		Average Grant-		Average Grant-
		Date		Date		Date
	Shares	Price	Shares	Price	Shares	Price
Nonvested at beginning of year	2,612,876	\$ 3.96	496,059	\$ 10.39	1,318,162	\$ 13.21
Granted	4,018,253	3.26	2,890,943	3.96	173,387	8.01
Vested	(695,751)	3.45	(594,876)	9.00	(741,007)	14.19
Forfeited	(475,478)	3.79	(179,250)	4.97	(254,483)	11.31
Nonvested at end of year	5,459,900	\$ 3.52	2,612,876	\$ 3.96	496,059	\$ 10.39

As of December 29, 2012, there was approximately \$10.1 million of total unrecognized compensation cost related to nonvested restricted stock. This expense, net of forfeitures, is expected to be recognized over a weighted-average period of approximately 2 years. Of the 5.5 million unvested shares at year end, the Company estimates that 5.0 million shares will vest. The total grant date fair value of shares vested during 2012 was approximately \$2.4 million.

### **Performance-Based Incentive Program**

During 2012, the Company implemented a performance-based long-term incentive program consisting of performance stock units and performance cash. Payouts under this program are based on achievement of certain financial targets set by the Board of Directors, and are subject to additional service vesting requirements, generally of three years from the grant date. In total, 2.1 million performance stock units were granted under the program. Based on 2012 performance, 1.0 million shares were earned and will be subject to the vesting requirements; all remaining shares were forfeited.

The Company also granted \$15.0 million in performance cash under the program described above. Based on 2012 performance, \$5.6 million was considered earned and the remaining \$9.4 million was forfeited. The vesting of the performance cash is identical to the vesting for the performance stock units discussed above.

#### Long-Term Incentive Cash Plan

During 2012, certain of the Company's employees were eligible to receive time-vested long-term incentive cash. Approximately \$6 million was granted in March of 2012 with a three-year ratable vesting schedule. Awards vest on each of the first three anniversaries following the grant date. As of December 29, 2012 there was approximately \$5.5 million that remained outstanding.

### **Retirement Savings Plans**

Eligible Company employees may participate in the Office Depot, Inc. Retirement Savings Plan ("401(k) Plan"), which was approved by the Board of Directors. This plan allows those employees to contribute a percentage of their salary, commissions and bonuses in accordance with plan limitations and provisions of Section 401(k) of the Internal Revenue Code. Company matching contributions were suspended by the compensation and benefits committee of the Board of Directors during 2010. The committee reinstated the Company matching provisions at 50% of the first 4% of an employee's contributions, subject to the limits of the 401(k) Plan, effective with the first pay period beginning in 2011. Matching contributions are invested in the same manner as the participants' pre-tax contributions. The 401(k) Plan also allows for a discretionary matching contribution in addition to the normal match contributions if approved by the Board of Directors.

Office Depot also sponsors the Office Depot, Inc. Non-Qualified Deferred Compensation Plan that, until December 2009, permitted eligible highly compensated employees, who were limited in the amount they could contribute to the 401(k) Plan, to alternatively defer a portion of their salary, commissions and bonuses up to maximums and under restrictive conditions specified in this plan and to participate in Company matching provisions. The matching contributions to the deferred compensation plan were allocated to hypothetical investment alternatives selected by the participants. The compensation and benefits committee of the Board of Directors amended the plan to eliminate the predetermined matching contributions effective with the first payroll period beginning in 2009. In October 2009, the plan was amended the plan to no longer accept new deferrals.

During 2012, 2011, and 2010, \$7.3 million, \$7.2 million and \$80.2 thousand, respectively, was recorded as compensation expense for Company contributions to these programs and certain international retirement savings plans. Additionally, nonparticipating annuity premiums were paid for benefits in certain European countries totaling \$5.0 million, \$5.0 million and \$4.7 million in 2012, 2011, and 2010, respectively.

#### **Pension Plan**

The Company has a defined benefit pension plan which is associated with a 2003 European acquisition and covers a limited number of employees in Europe. During 2008, curtailment of that plan was approved by the trustees and future service benefits ceased for the remaining employees.

The sale and purchase agreement ("SPA") associated with the 2003 European acquisition included a provision whereby the seller was required to pay an amount to the Company if the acquired pension plan was determined to be underfunded based on 2008 plan data. The unfunded obligation amount calculated by the plan's actuary based on that data was disputed by the seller. In accordance with the SPA, the parties entered into arbitration to resolve this matter and, in March 2011, the arbitrator found in favor of the Company. The seller pursued an annulment of the award in French court. In November 2011, the seller paid GBP 5.5 million (\$8.8 million, measured at then-current exchange rates) to the Company to allow for future monthly payments to the pension plan, pending a court ruling on their cancellation request. That money was placed in an escrow account with the pension plan acting as trustee. On January 6, 2012, the Company and the seller entered into a settlement agreement that settled all claims by either party for this and any other matter under the original SPA. The seller paid an additional GBP 32.2 million (approximately \$50 million, measured at then-current exchange rates) to the Company in February 2012. Following this cash receipt in February 2012, the Company contributed the GBP 37.7 million (approximately \$58 million at then-current exchange rates) to the pension plan, resulting in the plan changing from an unfunded liability position at December 31, 2011 to a net asset position at December 29, 2012 as shown in table below. There are no additional funding requirements while the plan is in a surplus position.

This pension provision of the SPA was disclosed in 2003 and subsequent periods as a matter that would reduce goodwill when the plan was remeasured and cash received. However, all goodwill associated with this transaction was impaired in 2008, and because the remeasurement process had not yet begun, no estimate of the potential payment to the Company could be made at that time. Consistent with disclosures subsequent to the 2008 goodwill impairment, resolution of this matter in the first quarter of 2012 was reflected as a credit to operating expense. The cash received from the seller, reversal of an accrued liability as a result of the settlement agreement, fees incurred in 2012, and fee reimbursement from the seller have been reported in Recovery of purchase price in the Consolidated Statements of Operations for 2012, totaling \$68.3 million. An additional expense of \$5.2 million of costs incurred in prior periods related to this arrangement is included in General and administrative expenses, resulting in a net increase in operating profit for 2012 of \$63.1 million. Similar to the presentation of goodwill impairment in 2008, this recovery and related charge is reported at the corporate level, not part of International Division operating income.

The cash payment from the seller was received by a subsidiary of the Company with the Euro as its functional currency and the pension plan funding was made by a subsidiary with Pound Sterling as its functional currency, resulting in certain translation differences between amounts reflected in the Consolidated Statements of Operations and the Consolidated Statements of Cash Flows for 2012. The receipt of cash from the seller is presented as a source of cash in investing activities. The contribution of cash to the pension plan is presented as a use of cash in operating activities.

The following table provides a reconciliation of changes in the projected benefit obligation, the fair value of plan assets and the funded status of the plan to amounts recognized on the Company's Consolidated Balance Sheets:

(In thousands)	December 29, 2012	December 31, 2011
Changes in projected benefit obligation:		
Obligation at beginning of period	\$ 182,364	\$ 177,195
Service cost	—	—
Interest cost	8,639	9,838
Benefits paid	(4,545)	(4,118)
Actuarial gain (loss)	14,287	(1,558)
Currency translation	7,114	1,007
Obligation at valuation date	207,859	182,364
Changes in plan assets:		
Fair value at beginning of period	132,787	132,022
Actual return (loss) on plan assets	22,413	(1,259)
Company contributions	58,987	5,293
Benefits paid	(4,545)	(4,118)
Currency translation	6,285	849
Plan assets at valuation date	215,927	132,787
Net asset (liability) recognized at end of period	\$ 8,068	\$ (49,577)

In the Consolidated Balance Sheets, the net funded amount at December 29, 2012 is classified as a non-current asset in the caption Other assets and the net unfunded balance at December 31, 2011 was included in Deferred taxes and other long-term liabilities. Included in OCI were deferred losses of \$3.9 million and \$1.0 million at December 29, 2012 and December 31, 2011, respectively. The deferred loss is not expected to be amortized into income during 2012.

The components of net periodic cost (benefit) are presented below:

(In thousands)	2012	2011	2010
Service cost	<u>s                                    </u>	\$ —	\$ —
Interest cost	8,639	9,838	10,466
Expected return on plan assets	(10,674)	(9,336)	(8,039)
Net periodic pension cost (benefit)	\$ (2,035)	\$ 502	\$ 2,427

Assumptions used in calculating the funded status included:

	2012	2011	2010
Long-term rate of return on plan assets	6.00%	6.00%	6.77%
Discount rate	4.40%	4.70%	5.40%
Salary increases	_	—	
Inflation	3.00%	3.00%	3.40%

The plan's investment policies and strategies are to ensure assets are available to meet the obligations to the beneficiaries and to adjust plan contributions accordingly. The plan trustees are also committed to reducing the level of risk in the plan over the long term, while retaining a return above that of the growth of liabilities.

The long-term rate of return on assets assumption has been derived based on long-term UK government fixed income yields, having regard to the proportion of assets in each asset class. The funds invested in equities have been assumed to return 4.0% above the return on UK government securities of appropriate duration. Funds invested in corporate bonds are assumed to return equal to a 15 year AA bond index. Allowance is made for expenses of 0.5% of assets.

The allocation of assets is as follows:

	Perce	Percentage of Plan Assets		
	2012	2011	2010	Target Allocation
Equity securities	64%	70%	73%	65%
Debt securities	36%	30%	27%	35%
Total	100%	100%	100%	

The fair value of plan assets by asset category is as follows:

(In thousands)		Quoted Prices in Active Markets for Identical Assets	Fair Value Measuremer at December 29, 2012 Significant Observable Inputs	
Asset Category	<u> </u>	(Level 1)	(Level 2)	(Level 3)
Equity securities				
Developed market equity funds	\$ 72,169	\$ 72,169	\$ —	\$ —
Emerging market equity funds	66,519		66,519	
Total equity securities	138,688	72,169	66,519	
Debt securities				
UK debt funds	11,866		11,866	—
Liability term matching debt funds	65,373		65,373	—
Total debt securities	77,239		77,239	
Total	\$215,927	\$ 72,169	\$143,758	\$

(In thousands)		Quoted Prices in Active	Fair Value Measurement at December 31, 2011	s	
Asset Category	Total	Markets for Identical Assets (Level 1)	Significant Observable Inputs (Level 2)	Signif Unobse Inp (Lev	ervable uts
Equity securities					
Developed market equity funds	\$ 86,601	\$ 86,601	\$ —	\$	—
Emerging market equity funds	5,311	1,487	3,824		
Total equity securities	91,912	88,088	3,824		
Debt securities					
UK debt funds	30,439		30,439		
Liability term matching debt funds	10,436		10,436		—
Total debt securities	40,875		40,875		
Total	\$132,787	\$ 88,088	\$ 44,699	\$	

Anticipated benefit payments, at December 29, 2012 exchange rates, are as follows:

(In thousands)	
2013	\$ 4,764
2014	4,906
2015	5,053
2016	5,204
2017	5,361
Next five years	29,316

# NOTE I - FAIR VALUE MEASUREMENTS

The Company measures fair value 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. In developing its fair value estimates, the Company uses the following hierarchy:

Level 1: Quoted prices in active markets for identical assets or liabilities.

Level 2: Observable market based inputs or unobservable inputs that are corroborated by market data.

Level 3: Significant unobservable inputs that are not corroborated by market data. Generally, these fair value measures are modelbased valuation techniques such as discounted cash flows or option pricing models using own estimates and assumptions or those expected to be used by market participants.

The fair values of cash and cash equivalents, receivables, accounts payable and accrued expenses and other current liabilities approximate their carrying values because of their short-term nature.

Refer to Note A for additional information on cash and cash equivalents, which total \$670.8 million at December 29, 2012 (Level 1), as well as fair value estimates used when considering potential impairments of long-lived assets (Level 3). Impairment charges of \$138.5 million, \$11.4 million and \$2.3 during 2012, 2011, and 2010, respectively, were based on estimated fair values of the related assets of \$42 million in 2012, \$1.7 million in 2011 and \$0.4 million in 2010.

The fair values of the Company's foreign currency contracts and fuel contracts are the amounts receivable or payable to terminate the agreements at the reporting date, taking into account current interest rates, exchange rates and commodity prices. The values are based on market-based inputs or unobservable inputs that are corroborated by market data. Refer to Note J for additional information on the Company's derivative instruments and hedging activities.

The Company records its Senior Notes payable at par value, adjusted for amortization of a fair value hedge which was cancelled in 2005. The fair value of the Senior Notes and the Senior Secured Notes are considered Level 2 fair value measurements and are based on market trades of these securities on or about the dates below.

	20	2012		)11
	Carrying	Fair	Carrying	Fair
(In thousands)	Value	Value	Value	Value
6.25% Senior Notes	\$149,953	\$153,750	\$399,953	\$381,067
9.75% Senior Secured Notes	\$250,000	\$265,938	—	

#### Fair Value Estimates Used in Impairment Analyses

#### North American Retail Division

Because of declining sales in recent periods, the Company has conducted a detailed quarterly store impairment analysis. The analysis uses input from retail store operations and the Company's accounting and finance personnel that organizationally report to the Chief Financial Officer. These projections are based on management's estimates of store-level sales, gross margins, direct expenses, exercise of future lease renewal options, where applicable, and resulting cash flows and, by their nature, include judgments about how current initiatives will impact future performance. If the anticipated cash flows of a store cannot support the carrying value of its assets, the assets are impaired and written down to estimated fair value using Level 3 inputs. The Company recognized store asset impairment charges of \$11 million in 2011, and \$18 million, \$24 million, \$73 million and \$9 million, in the four quarters of 2012, respectively.

A review of the North American Retail portfolio began in mid-2012 and the NA Retail Strategy was approved in the third quarter. The analysis concluded with a plan for each location to downsize to either small or mid-size format, relocate, remodel, renew or close at the end of the base lease term. These changes, and continued store performance, served as a basis for the Company's asset impairment review for the third and fourth quarters of 2012.

The NA Retail Strategy provides a plan to downsize approximately 275 locations to small-format stores at the end of their lease term over the next three years and an additional 165 locations over the following two years. Approximately 60 locations will be downsized or relocated to the mid-sized format over the next three years and another 25 over the following two years. The Company anticipates closing approximately 50 stores as their base lease period ends. The remaining stores in the portfolio are anticipated to remain as configured, be remodeled or have base lease periods more than five years in the future. Future market conditions could impact any of these decisions used in this analysis.

Approximately 40% of the store leases will be at the optional renewal period within the next three years and 65% within the next five years. The individual cash flow time horizon for stores expected to be closed, relocated or downsized has been reduced to the base lease period, eliminating renewal option periods from the calculation, where applicable. Additionally, projected sales trends included in the impairment calculation model in prior periods have been reduced. The quarterly impairment analyses in recent periods have contemplated short-term negative sales trends, a period of no growth, turning positive in the second and later years. However, the actual quarterly results have declined more than included in the model and the Company recognized asset impairment charges each quarter since the third quarter of 2011, even though the Company continued to lower projected sales trends for these tests. Each period reflected the Company's best estimate at the time. The current outlook on comparable store sales is a decline of 4% in the first year. The projected sales continue to be negative for the second year, but are on an improving trend. Gross margin assumptions have been held constant at current actual levels and operating costs are consistent with recent actual results and planned activities. Following adoption of the NA Retail Strategy and impairment charges recognized, approximately 250 stores were reduced to estimated salvage value of \$7 million and assets for 130 locations were reduced to estimated fair value of \$35 million based on their projected sal flows, discounted at 13%. The remaining value after asset impairment charges will be depreciated over the remaining lease period. These and other lower-performing locations are particularly sensitive to changes in projected cash flows over the forecast period and additional impairment is possible in future periods if results are below projections. A 100 basis point decrease in sales used in these estimates would have increased impairment by approximately \$4.

The Company will continue to evaluate initiatives to improve performance and lower operating costs. To the extent that forward-looking sales and operating assumptions are not achieved and are subsequently reduced, or if the Company commits to a more extensive store downsizing strategy, additional impairment charges may result. Additionally, unless store performance improves, future impairment charges may result. However, at the end of 2012, the impairment analysis reflects the Company's best estimate of future performance, including the intended future use of the Company's retail store assets.

#### **International Division**

During 2011, the Company acquired an office supply company in Sweden to supplement the existing business in that market. As a result of slowing economic conditions in Sweden after the acquisition, difficulties in the consolidation of multiple distribution centers and the adoption of new warehousing systems which impacted customer service and delayed or undermined planned marketing activities, the Company re-evaluated remaining balances of acquisition-related intangible assets of customer relationships and short-lived tradename values. The acquisition-date intangible asset valuation anticipated customer attrition of approximately 11% to 13% per year through 2013. The cash flow analysis consistent with the original valuation of the definite-lived intangible assets was updated by accounting and finance department personnel to reflect the decline experienced in 2012, as well as projected sales declines of 8% for acquisition-date retail customer relationships and 2% for acquisition-date contract relationships in 2013 and costs necessary to successfully complete the warehouse integration and relaunch the marketing initiatives. Cash flows related to these acquired customer relationships with the updated Level 3 inputs were projected to be negative, then recovering, but were insufficient to recover the intangible assets' remaining carrying values. Accordingly, an impairment charge of approximately \$14 million was recognized during the third quarter of 2012 and is presented in Asset impairments in the Consolidated Statements of Operations.

#### Fair Value Estimates Used for Paid-in-Kind Dividends

The Company's Board of Directors can elect to pay quarterly dividends on the preferred stock in cash or in-kind. Dividends paid-in-kind are measured at fair value, using Level 3 inputs. The Company uses a binomial simulation that captures the call, conversion, and interest rate reset features as well the optionality of paying the dividend in-kind or in cash. The Board of Directors and Company's management consider then-current and estimated future liquidity factors in making that quarterly decision.

Dividends were paid in cash for each of the quarterly periods of 2010, the first three quarters of 2011, and the fourth quarter of 2012. For the 2011 dividends paidin-kind, the simulation was based stock price volatility of 70%, a risk free rate of 1.49%, and a risk adjusted rate of 14.6%. The fair value calculation of \$7.7 million was approximately \$1.6 million below the amount added to the liquidation preference. For dividends paid-in-kind for the three quarters of 2012, the average stock price volatility was 63%, the risk free rate was 3.0% and the risk adjusted rate was 14.5%. The aggregate fair value calculated for these three quarters was \$22.8 million, \$6.3 million below the amount added to the liquidation preference. For the dividend paid-in-kind for the third quarter of 2012, a stock price volatility of 55% or 75% would have increased the estimate by \$0.7 million or decreased the estimate by \$0.6 million, respectively. Using a beginning of period stock price of \$1.50 or \$3.50 would have decreased the estimate by \$1.7 million or increased the estimate by \$1.1 million, respectively. Assuming that all future dividends would be paid in cash would have increased the estimate by \$1.3 million. Assuming all future dividends would be paid-in-kind had no significant impact.

#### **Indefinite Lived Intangible Assets**

The quantitative tests of indefinite lived intangible assets during 2012 were based on a combination of discounted cash flows and market-based information, where available. Goodwill of \$45 million included in the International Division is in a reporting unit comprised of wholly-owned operating subsidiaries in Europe and ownership of the joint venture operating in Mexico. The assessment of fair value of the operating subsidiaries was primarily based on a discounted cash flow analysis, including an estimated residual value. The analysis is prepared by the Company's finance and accounting personnel that organizationally report to the Chief Financial Officer. The cash flows were projected to decrease, level and then trend positive, with an ending year growth rate of 1.5%. These amounts were discounted at 13%. Market data was used to corroborate this estimated value. Market data was used to estimate the value of the joint venture and was corroborated with a discounted cash flow analysis. The total estimated fair value of the reporting unit exceeded its carrying value by approximately 30%, with a substantial majority of the value associated with the joint venture. If the joint venture were removed from the composition of the reporting unit, it is likely that all of the existing goodwill would be impaired. Additionally, even if there is no change in the composition of the reporting unit, if future performance is below our projections, goodwill and other intangible asset impairment charges can result. The goodwill included in the North American Business Services Division was also assessed with no indications of impairment identified.

The estimated value of the indefinite lived tradename included in the International Division was based on an estimated royalty rate of 0.5% applied to projected sales and discounted at 13%. No indications of impairment were identified.

There were no significant differences between the carrying values and fair values of the Company's financial instruments as of December 29, 2012 and December 31, 2011, except as disclosed above.

### NOTE J – DERIVATIVE INSTRUMENTS AND HEDGING

As a global supplier of office products and services the Company is exposed to risks associated with changes in foreign currency exchange rates, commodity prices and interest rates. Foreign operations are typically, but not exclusively, conducted in the currency of the local environment. The Company is exposed to the risk of foreign currency exchange rate changes when making purchases, selling products, or arranging financings that are denominated in a currency different from the entity's functional currency. Depending on the settlement timeframe and other factors, the Company may enter into foreign currency derivative transactions to mitigate those risks. The Company may designate and account for such qualifying arrangements as hedges. Gains and losses on these cash flow hedging transactions are deferred in other comprehensive income ("OCI") and recognized in earnings in the same period as the hedged item. Transactions that are not designated as cash flow hedges are marked to market at each period with changes in value included in earnings. Historically, the Company has not entered into transactions to hedge net investment in foreign operations but may in future periods.

The Company is also exposed to the risk of changing fuel prices from inbound and outbound transportation arrangements. The structure of many of these transportation arrangements, however, precludes applying hedge accounting. In those circumstances, the Company may enter into derivative transactions to offset the risk of commodity price changes, and the value of the derivative contract is marked to market at each reporting period with changes recognized in earnings. To the extent fuel arrangements qualify for hedge accounting, gains and losses are deferred in OCI until such time as the hedged item impacts earnings. At the end of the 2012, the Company had entered into a series of monthly forward swap contracts for approximately 10.9 million gallons of fuel settling through January 2014. These contracts are not designated as hedging instruments.

Interest rate changes on Company's obligations may result from external market factors, as well as changes in credit rating or availability under the Facility. The Company manages exposure to interest rate risks at the corporate level. Interest rate sensitive assets and liabilities are monitored and assessed for market risk. Currently, no interest rate related derivative arrangements are in place. OCI includes the deferred gain from a hedge contract terminated in a prior period, net of the portion that was recognized as a component of the Loss on extinguishment of debt during the quarter ended March 31, 2012. This deferral is being amortized to interest expense through August 2013.

In certain markets, the Company may contract with third parties for future electricity needs. Such arrangements are not considered derivatives because they are within the ordinary course of business and are for physical delivery. Accordingly, these arrangements are not included in the tables below.

Financial instruments authorized under the Company's established risk management policy include spot trades, swaps, options, caps, collars, forwards and futures. Use of derivative financial instruments for speculative purposes is expressly prohibited.

The following tables provide information on the Company's hedging and derivative positions and activity.

	Decembe	December 29, 2012		er 31, 2011
	Other	Other	Other	Other
(In thousands)	Current Assets	Current Liabilities	Current Assets	Current Liabilities
Designated cash flow hedges:				
Foreign exchange contracts	\$ 565	\$ 323	\$ 284	\$ —
Non-designated hedging instruments:				
Foreign exchange contracts	—	9	57	92
Commodity contracts – fuel	201		—	251
Total	\$ 766	\$ 332	\$ 341	\$ 343

	Non-D	esignated Hed	ging						
	Instruments Design			Designated Cas	h Flow Hed	ges			
	Amou	nts of Gain/(L	oss)				(Gai	ns)/Loss Recl	assified
	Recogn	ized in Stateme	ent of	(Ga	in)/Loss Reco	gnized	from	<b>OCI to State</b>	ment of
	Op	erations (a)(b)			in OCI		Operations (c)		c)
(In thousands)	2012	2011	2010	2012	2011	2010	2012	2011	2010
Foreign exchange contracts	\$(3,066)	\$(6,452)	\$(117)	\$(515)	\$1,646	\$(1,982)	\$(165)	\$1,123	\$(2,229)
Commodity									
contracts-fuel	452	3,601	253						
Total	\$(2,614)	\$(2,851)	\$ 136	\$(515)	\$1,646	\$(1,982)	\$(165)	\$1,123	\$(2,229)

(a) Foreign exchange contracts amounts are included in Miscellaneous income, net

- (b) Approximately 60% of the fuel commodity contracts amounts are reflected in Cost of goods sold and occupancy costs. The remaining 40% of the amounts are reflected in Operating and selling expenses.
- (c) Included in Cost of goods sold and occupancy costs.

The existing designated hedge contracts are highly effective and the ineffective portion is considered immaterial. As of December 29, 2012, the foreign exchange contracts extend through December 2013. Losses currently deferred in OCI are expected to be recognized in earnings within the next twelve months. There were no hedging arrangements requiring collateral. However, the Company may be required to provide collateral on certain arrangements in the future. The fair values of the Company's foreign currency contracts and fuel contracts are the amounts receivable or payable to terminate the agreements at the reporting date, taking into account current exchange rates. The values are based on market-based inputs or unobservable inputs that are corroborated by market data.

### NOTE K – REDEEMABLE PREFERRED STOCK

On June 23, 2009, Office Depot, Inc. issued 274,596 shares of 10.00% Series A Redeemable Convertible Participating Perpetual Preferred Stock, par value \$0.01 per share ("Series A Preferred Stock"), and 75,404 shares of 10.00% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock, par value \$0.01 per share ("Series B Preferred Stock"), to funds advised by BC Partners, Inc. (the "Investors"), for \$350 million (collectively, the "Redeemable Preferred Stock"). The issued shares are out of 280,000 authorized shares of Series A Preferred Stock and 80,000 authorized shares of Series B Preferred Stock. Approval of conversion and voting rights for these shares was received at a special shareholders' meeting on October 14, 2009.

The initial liquidation value of \$1,000 per preferred share and the conversion rate of \$5.00 per common share allow the two series of preferred stock to be initially convertible into 70 million shares of common stock. The conversion rate is subject to anti-dilution adjustments. Until converted or otherwise redeemed, the Redeemable Preferred Stock is recorded outside of permanent equity on the Consolidated Balance Sheets because certain redemption conditions are not solely within the control of Office Depot. The balance is presented inclusive of accrued dividends measured at fair value and net of approximately \$25 million of fees.

Dividends are payable quarterly and will be paid in-kind or, in cash, only to the extent that the Company has funds legally available for such payment and a cash dividend is declared by the Company's Board of Directors and allowed by credit facilities. If not paid in cash, an amount equal to the cash dividend due will be added to the liquidation preference and measured for accounting purposes at fair value. After the third anniversary of issuance, the dividend rate will be reduced to:

- (i) 7.87% if at any time after June 23, 2010, the closing price of the Company's common stock is greater than or equal to \$6.62 per share for a period of 20 consecutive trading days, or
- (ii) 5.75% if at any time after June 23, 2010, the closing price of the Company's common stock is greater than or equal to \$8.50 per share for a period of 20 consecutive trading days.

The Redeemable Preferred Stock also may participate in dividends on common stock, if declared. However, if the closing price of the common stock on the record date for a dividend payment is less than \$45.00 per share, the Company may not declare or pay a cash dividend on the common stock per share for any fiscal quarter in excess of the Redeemable Preferred Stock dividend amounts.

The Board of Directors approved cash dividends on the Redeemable Preferred Stock for each of the quarterly periods of 2010, the first three quarters of 2011, and the fourth quarter of 2012. Dividends were accrued and paid-in-kind for the last two quarters of 2009, fourth quarter of 2011 and the first three quarters of 2012. The stated-rate of those in-kind dividends were added to the liquidation preference of the respective Series A and Series B Preferred Stock. For accounting purposes, the dividends paid-in-kind were measured at fair value using a binomial simulation model. Refer to Note I for additional information. With an aggregate of Series A and Series B of 350,000 shares, reported dividends calculated on a per share basis were \$94.10, \$102.01, and \$106.04, for 2012, 2011, and 2010, respectively. The liquidation preference value of the Redeemable Preferred Stock was \$406.8 million and \$377.7 million at December 29, 2012 and December 31, 2011, respectively.

The Company has the option to exercise the redemption rights of the Redeemable Preferred Stock, in whole or in part, at any time after June 23, 2012, subject to the right of the holder to first convert the preferred stock the Company proposes to redeem. The redemption price is initially 107% of the liquidation preference amount plus any accrued but unpaid dividends and decreases by 1% each year until reaching 100% after June 23, 2019. At any time after June 23, 2011, if the closing price of the common stock is greater than or equal to \$9.75 per share for a period of 20 consecutive trading days, the Redeemable Preferred Stock is redeemable at 100% of the liquidation preference amount plus any accrued but unpaid dividends, in whole or in part, at the option of the Company, subject to the right of the holder to first convert the Redeemable Preferred Stock the Company proposes to redeem. The holder has the option to exercise the redemption rights of the Redeemable Preferred Stock at 101% of the liquidation preference in the event of certain fundamental change provisions (as defined in the Certificate of Designations for each series), including sale, bankruptcy or delisting of the Company's common stock.

In connection with the transaction, the Company entered into an Investor Rights Agreement. Subject to certain exceptions, for so long as the Investors' ownership percentage is equal to or greater than 10%, the approval of at least one of the directors designated to the Company's Board of Directors by the Investors is required for the Company to incur any indebtedness for borrowed money in excess of \$200 million in the aggregate during any fiscal year. In addition, at the current ownership percentage level, the Investors are entitled to nominate up to three members of the Board of Directors. Declining ownership percentages reduce the Investors' board representation rights. Three directors designated by the Investors are current members of the Company's Board of Directors.

#### NOTE L – CAPITAL STOCK

#### **Preferred Stock**

As of December 29, 2012, there were 1,000,000 shares of \$0.01 par value preferred stock authorized of which 540,000 remain undesignated. In June 2009, 360,000 shares were designated to the Redeemable Preferred Stock, of which 350,000 shares were issued and are outstanding. In October 2012, 100,000 shares were designated to Series C Junior Participating Preferred Stock discussed in the Rights Agreement section below.

### **Treasury Stock**

At December 29, 2012, there were 5.9 million treasury shares held. Additional common stock repurchases are currently prohibited under the Facility and, in certain circumstances, require prior approval under the Preferred Stock agreements.

#### **Rights Agreement**

In October 2012, Company entered into a stockholder rights plan (the "Rights Agreement"). Pursuant to the Rights Agreement, the Board of Directors declared a dividend distribution of one Right (a "Right") for each outstanding share of the Company's common stock, par value \$0.01 per share to shareholders of record at the close of business on November 9, 2012, which date will be the record date, and for each share of common stock issued (including shares distributed from Treasury) by the Company thereafter and prior to the Distribution Date (as described below). Each Right entitles the registered holder, subject to the terms of the Rights Agreement, to purchase from the Company one five-thousandth of a share of Series C Junior Participating Preferred Stock, \$0.01 par value per share (the "Series C Preferred Stock"), at a purchase price of \$11.50 per one five-thousandth of a share of Series C Preferred Stock, subject to adjustment.

Initially, no separate rights certificates will be distributed and instead the Rights will attach to all certificates representing shares of outstanding common stock. The Rights will separate from the common stock on the distribution date (the "Distribution Date"), which will occur on the earlier of (i) ten Business Days following a public announcement that a person or group of affiliated or associated persons has become an "Acquiring Person," or (ii) ten Business Days (or such later date as may be determined by the Board of Directors prior to such time as any person becomes an Acquiring Person) following the commencement of a tender offer or exchange offer that would result in a person or group of affiliated and associated persons beneficially owning 15% or more of the shares of common stock then outstanding.

## NOTE M – EARNINGS PER SHARE

The following table presents the calculation of net earnings (loss) per common share — basic and diluted:

(In thousands, except per share amounts)	2012	2011	2010
Basic Earnings Per Share			
Numerator:			
Net earnings (loss) attributable to common stockholders	\$(110,045)	\$ 59,989	\$ (81,736)
Denominator:			
Weighted-average shares outstanding	279,727	277,918	275,557
Basic earnings (loss) per share	\$ (0.39)	\$ 0.22	\$ (0.30)
Diluted Earnings Per Share			
Numerator:			
Net earnings (loss) attributable to Office Depot, Inc.	\$ (77,111)	\$ 95,694	\$ (44,623)
Denominator:			
Weighted-average shares outstanding	279,727	277,918	275,557
Effect of dilutive securities:			
Stock options and restricted stock	4,401	5,176	7,060
Redeemable preferred stock	78,427	73,703	73,676
Diluted weighted-average shares outstanding	362,555	356,797	356,293
Diluted earnings (loss) per share	N/A	N/A	N/A

Awards of options and nonvested shares representing an additional 14.6 million, 13.6 million and 13.0 million shares of common stock were outstanding for the years ended December 29, 2012, December 31, 2011 and December 25, 2010, respectively, but were not included in the computation of diluted weighted-average shares outstanding because their effect would have been antidilutive. For the three years presented, no tax benefits have been assumed in the weighted average share calculation in jurisdictions with valuation allowances. The diluted share amounts for 2012, 2011 and 2010 are provided for informational purposes, as the level of earnings (loss) for the periods causes basic earnings per share to be the most dilutive.

Following the Company's issuance of the redeemable preferred stock in 2009, basic earnings per share is computed after consideration of preferred stock dividends. The preferred stock has certain participation rights with common stock resulting in application of the two-class method for computing earnings per share. In periods of sufficient earnings, this method assumes an allocation of undistributed earnings to both participating stock classes. The two-class method impacted the computation of earnings for the first quarter of 2012, but was not applicable to the full year 2012 because if would have been antidilutive. The preferred stockholders are not required to fund losses.

Dividends on preferred stock that are paid-in-kind are measured at fair value for financial reporting purposes and may be higher or lower than the cash-equivalent for the period. For additional information, refer to Note I and Note K.

### NOTE N - SUPPLEMENTAL INFORMATION ON OPERATING, INVESTING AND FINANCING ACTIVITIES

Additional supplemental information related to the Consolidated Statements of Cash Flows is as follows:

(In thousands)	2012	2011	2010
Cash interest paid (net of amounts capitalized)	\$56,808	\$54,833	\$ 62,352
Cash taxes paid (refunded)	10,297	(3,317)	(54,459)
Non-cash asset additions under capital leases	9,029	10,025	13,251
Non-cash paid-in-kind dividends (refer to Note K)	22,765	7,656	—

## NOTE O – SEGMENT INFORMATION

Office Depot operates in three segments: North American Retail Division, North American Business Solutions Division, and International Division. Each of these segments is managed separately primarily because it serves a different customer group. The accounting policies for each segment are the same as those described in Note A. Division operating income (loss) is determined based on the measure of performance reported internally to manage the business and for resource allocation. This measure charges to the respective Divisions those expenses considered directly or closely related to their operations and allocates support costs. Other companies may charge more or less of these items to their segments and results may not be comparable to similarly titled measures used by other entities.

A summary of significant accounts and balances by segment, reconciled to consolidated totals follows.

		North American	North American Business		Eliminations	Consolidated
(In thousands)		Retail	Solutions	International	and Other*	Total
Sales	2012	\$4,457,826	\$3,214,915	\$3,022,911	<b>\$</b> —	\$10,695,652
	2011	\$4,870,166	\$3,261,953	\$3,357,414	\$ —	\$11,489,533
	2010	\$4,962,838	\$3,290,430	\$3,379,826	\$ —	\$11,633,094
Division operating income (loss)	2012	\$ (101,933)	\$ 104,841	\$ (20,272)	<b>\$</b> —	\$ (17,364)
	2011	\$ 27,504	\$ 73,437	\$ 33,009	\$ —	\$ 133,950
	2010	\$ 31,064	\$ (16,769)	\$ 51,357	\$ —	\$ 65,652
Capital expenditures	2012	\$ 60,521	\$ 31,494	\$ 25,350	\$ 2,895	\$ 120,260
	2011	\$ 70,884	\$ 31,838	\$ 26,356	\$ 1,239	\$ 130,317
	2010	\$ 82,934	\$ 53,407	\$ 27,637	\$ 5,474	\$ 169,452
Depreciation and amortization	2012	\$ 102,611	\$ 43,300	\$ 33,810	\$ 23,468	\$ 203,189
	2011	\$ 108,991	\$ 42,065	\$ 37,331	\$ 23,023	\$ 211,410
	2010	\$ 107,701	\$ 42,522	\$ 36,103	\$ 21,993	\$ 208,319
Charges for losses on receivables and inventories	2012	\$ 40,237	\$ 5,835	\$ 18,858	\$ —	\$ 64,930
0	2011	\$ 31,274	\$ 6,578	\$ 18,348	\$ —	\$ 56,200
	2010	\$ 37,681	\$ 8,463	\$ 11,680	\$ —	\$ 57,824
Net earnings from equity method investments	2012	\$	\$	\$ 30,462	\$ —	\$ 30,462
	2011	\$ —	\$ —	\$ 31,426	\$ —	\$ 31,426
	2010	\$ —	\$	\$ 30,635	\$ —	\$ 30,635
Assets	2010	<b>\$1,188,985</b>	\$ 669,899	\$1,311,716	\$ <b>840,179</b>	\$ 4,010,779
	2011	\$1,453,858	\$ 596,223	\$1,373,108	\$ 827,795	\$ 4,250,984
	-011	¢1,100,000	÷ 000,220	\$1,070,100	<i>ф</i> о <u>г</u> ,, оо	↓ 1,200,004

\* Amounts included in "Eliminations and Other" consist of assets (including all cash and cash equivalents) and depreciation related to corporate activities.

A reconciliation of the measure of Division operating income (loss) to Earnings (loss) before income taxes follows.

(In thousands)	2012	2011	2010
Division operating income (loss)	\$(17,364)	\$133,950	\$ 65,652
Add/(subtract):			
Recovery of purchase price	68,314	—	—
Unallocated charges	(7,400)	(5,594)	(11,679)
Unallocated operating expenses	(74,391)	(94,602)	(91,264)
Interest expense	(68,937)	(33,223)	(58,498)
Interest income	2,240	1,231	4,663
Loss on extinguishment of debt	(12,110)	—	_
Miscellaneous income, net	34,225	30,857	34,451
Earnings (loss) before income taxes	\$(75,423)	\$ 32,619	\$(56,675)

As of December 29, 2012, the Company sold to customers throughout North America, Europe, Asia and Latin America. The Company operates through whollyowned and majority-owned entities and participates in other ventures and alliances. There is no single country outside of the United States in which the Company generates 10% or more of the Company's total sales. Geographic financial information relating to the Company's business is as follows (in thousands).

		Sales			Property and Equipment, Net			
	2012	2011	2010	2012	2011	2010		
United States	\$ 7,670,805	\$ 8,108,402	\$ 8,189,642	\$707,628	\$ 901,572	\$ 980,426		
International	3,024,847	3,381,131	3,443,452	148,713	165,468	176,587		
Total	\$10,695,652	\$11,489,533	\$11,633,094	\$856,341	\$1,067,040	\$1,157,013		

The Company classifies products into three categories: (1) supplies, (2) technology, and (3) furniture and other. The supplies category includes products such as paper, binders, writing instruments, school supplies, and ink and toner. The technology category includes products such as desktop and laptop computers, monitors, tablets, printers, cables, software, digital cameras, telephones, and wireless communications products. The furniture and other category includes products such as desks, chairs, luggage, sales in the copy and print centers, and other miscellaneous items.

Total Company sales by product group were as follows:

	2012	2011	2010
Supplies	65.5%	65.1%	65.2%
Technology	20.9%	21.9%	22.4%
Furniture and other	13.6%	13.0%	12.4%
	100.0%	100.0%	100.0%

### NOTE P – INVESTMENT IN UNCONSOLIDATED JOINT VENTURE

Since 1994, the Company has participated in a joint venture that sells office products and services in Mexico and Central and South America, Office Depot de Mexico. Because the Company participates equally in this business with a partner, the Company accounts for this investment using the equity method. The Company's proportionate share of Office Depot de Mexico's net income is presented in Miscellaneous income, net in the Consolidated Statements of Operations. The investment balance at year end 2012 and 2011 of \$241.8 million and \$196.9 million, respectively, is included in Other assets in the Consolidated Balance Sheets. The Company received dividends of \$25 million from this joint venture in 2011. The dividend is included as an operating activity in the Consolidated Statements of Cash Flows.

The Company also participates in a joint venture operating in India. The investment in and results of operations for that entity are considered immaterial for all periods. The following tables provide summarized information from the balance sheets and statements of income for Office Depot de Mexico:

	- /	ecember 31, 2011
\$ 377,	405 \$	303,404
333,	788	295,033
219,	774	199,588
7,	344	5,895
2012	2011	2010
\$1,144,020	\$1,114,201	\$961,61
347,866	326,804	283,18
63,183	61,951	61,26
	2012 \$ 377, 333, 219, 7, <u>2012</u> \$1,144,020 347,866	2012 \$ 377,405 \$ 333,788 219,774 7,344 2012 2011 \$1,114,201 347,866 326,804

## NOTE Q - ACQUISITION AND DISPOSITIONS

During the fourth quarter of 2012, the Company sold its operations in Hungary and entered into a license agreement with the buyers. The impact of this disposition is not significant to the Company's results of operations, financial position or cash flows for any period presented.

On February 25, 2011, the Company acquired all of the shares of Svanströms Gruppen (Frans Svanströms & Co AB), a supplier of office products and services headquartered in Stockholm, Sweden to complement the Company's existing business in that region. As part of this all-cash transaction, the Company recognized approximately \$46 million of non-deductible goodwill, primarily attributable to anticipated synergies, \$20 million of definite-lived intangible assets for customer relationships and proprietary names, as well as net working capital and property and equipment. The definite-lived intangible assets had a weighted average life of 6.9 years at the acquisition date. Operations have been included in the International Division results since the date of acquisition. Supplemental pro forma information as if the entities were combined at earlier periods is not provided based on materiality considerations. As discussed in Note D, the definite-lived intangible assets were impaired in the third quarter of 2012.

In December 2010, the Company sold the stock of its operating entities in Israel and Japan and entered into licensing agreements with the respective buyers of those companies. A loss on disposition of approximately \$11 million was reflected in the operating income of the International Division and included in Operating and selling expenses in the Consolidated Statement of Operations. Additionally in December 2010, the Company entered into an amended shareholders' agreement related to its joint venture in India such that financial and operating policies are shared and equity capital balances are equal. The revenues and expenses of these entities were included through the date of sale or deconsolidation in the Consolidated Statement of Operations and the assets and liabilities of each of these entities were removed from the year end 2010 Consolidated Balance Sheet. The investment in India is accounted for under the equity method, with the Company's share of results being presented in Miscellaneous income, net.

## NOTE R – QUARTERLY FINANCIAL DATA (UNAUDITED)

(In thousands, except per share amounts)		First arter <sup>(1)</sup>		econd larter <sup>(2)</sup>		Third uarter <sup>(3)</sup>		Fourth uarter <sup>(4)</sup>		
Fiscal Year Ended December 29, 2012										
Net sales	\$2,8	72,809	\$2,	507,150	\$2,	692,933	\$2,	622,760		
Gross profit	6	94,403	!	572,196		662,672		606,767		
Net earnings (loss)		49,499		(57,387)		(61,925)		(7,307)		
Net earnings (loss) attributable to Office Depot, Inc.		49,503		(57,382)		(61,916)		(7,316)		
Net earnings (loss) available to common stockholders		41,287		(64,281)		(64,281) (69,5		(69,566)		(17,485)
Net earnings (loss) per share*:										
Basic	\$	0.14	\$	(0.23)	\$	(0.25)	\$	(0.06)		
Diluted	\$	0.14	\$	(0.23)	\$	(0.25)	\$	(0.06)		

\* Due to rounding, the sum of the quarterly earnings per share amounts may not equal the reported earnings per share for the year.

(1) Net earnings include approximately \$68 million of recovery of purchase price income from previous acquisition associated with pension plan and approximately \$12 million loss on extinguishment of debt.

(2) Net earnings include approximately \$24 million North American Retail Division fixed asset impairment. (3)

Net earnings include approximately \$88 million North American Retail and International Division asset impairments.

(4) Net earnings include approximately \$9 million North American Retail Division fixed asset impairment.

(In thousands, except per share amounts)	(	First Quarter		econd uarter		Third ıarter <sup>(1)</sup>		Fourth uarter <sup>(2)</sup>		
Fiscal Year Ended December 31, 2011				<u> </u>						
Net sales	\$2,	972,960	\$2,7	710,141	\$2,8	336,737	\$2,	969,695		
Gross profit		696,907	(	615,065	(	578,021		715,135		
Net earnings (loss)		(5,390)		(20,116)	1	L00,849		20,348		
Net earnings (loss) attributable to Office Depot, Inc.		(5,414)		(20,114)	1	100,872		20,350		
Net earnings (loss) available to common stockholders		(14,627)		(29,327)		(29,327) 91,659		91,659		12,284
Net earnings (loss) per share*:										
Basic	\$	(0.05)	\$	(0.11)	\$	0.29	\$	0.04		
Diluted	\$	(0.05)	\$	(0.11)	\$	0.28	\$	0.04		

Due to rounding, the sum of the quarterly earnings per share amounts may not equal the reported earnings per share for the year. \* (1)

Net earnings include approximately \$99 million of tax and related interest benefits from the reversal of uncertain tax positions.

(2) Fiscal year 2011 includes 53 weeks in accordance with the Company's 52- week, 53-week retail calendar; accordingly, the fourth quarter includes 14 weeks. Additionally, the fourth quarter includes approximately \$24 million of benefits from the reversal of uncertain tax positions and valuation allowances.

### NOTE S – SUBSEQUENT EVENTS

On February 20, 2013, the Company entered into a definitive merger agreement (the "Agreement") with OfficeMax Incorporated ("OfficeMax"), pursuant to which the Company and OfficeMax would combine in an all-stock merger transaction. At the effective time of the merger, the Company would issue 2.69 new shares of common stock for each outstanding share of OfficeMax common stock. In addition, at the effective time of the merger, the Company's board of directors will be reconstituted to include an equal number of directors designated by the Company and OfficeMax. The parties' obligations to complete the merger are subject to several conditions, including, among others, approval by the shareholders of each of the two companies, the receipt of certain regulatory approvals and other customary closing conditions.