

TAYLOR DEVICES INC
Form 10-Q
October 14, 2008

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended August 31, 2008

OR

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

For the transition period from _____ to _____

Commission File Number 0-3498

TAYLOR DEVICES, INC.

(Exact name of registrant as specified in its charter)

NEW YORK
(State or Other Jurisdiction of
Incorporation or Organization)

16-0797789
(I.R.S. Employer
Identification No.)

90 Taylor Drive, North Tonawanda, New York
(Address of Principal Executive Offices)

14120-0748
(Zip Code)

716-694-0800
(Registrant's telephone number, including area code)

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

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

Large accelerated filer [] Accelerated filer [] Non-accelerated filer [] Smaller reporting company [X]

(Do not check if a smaller reporting company)

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

As of October 1, 2008, there were outstanding 3,219,923 shares of the registrant's common stock, par value \$.025 per share.

TAYLOR DEVICES, INC.

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TAYLOR DEVICES, INC. AND SUBSIDIARY

Condensed Consolidated Balance Sheets

| | (Unaudited) | |
|---|----------------------|----------------------|
| | August 31, | May 31, |
| | 2008 | 2008 |
| Assets | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 133,146 | \$ 110,720 |
| Accounts receivable, net | 3,412,844 | 2,109,157 |
| Inventory | 6,722,439 | 6,625,168 |
| Costs and estimated earnings in excess of billings | 2,759,750 | 1,756,164 |
| Other current assets | 1,074,247 | 1,360,736 |
| Total current assets | 14,102,426 | 11,961,945 |
| Maintenance and other inventory, net | 861,465 | 887,588 |
| Property and equipment, net | 3,452,552 | 3,425,910 |
| Intangible and other assets | 138,477 | 139,207 |
| | \$ 18,554,920 | \$ 16,414,650 |
| Liabilities and Stockholders' Equity | | |
| Current liabilities: | | |
| Short-term borrowings and current portion of long-term debt | \$ 2,921,221 | \$ 1,016,621 |
| Payables - trade | 1,126,425 | 1,186,249 |
| Accrued commissions | 527,174 | 392,693 |
| Other current liabilities | 966,836 | 934,514 |
| Total current liabilities | 5,541,656 | 3,530,077 |
| Long-term liabilities | 283,819 | 335,485 |
| Stockholders' Equity: | | |
| Common stock and additional paid-in capital | 6,457,195 | 6,425,490 |
| Retained earnings | 8,497,315 | 8,348,663 |

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| | | |
|-----------------------------------|----------------------|---------------|
| | 14,954,510 | 14,774,153 |
| Treasury stock - at cost | (2,225,065) | (2,225,065) |
| Total stockholders' equity | 12,729,445 | 12,549,088 |
| | \$ 18,554,920 | \$ 16,414,650 |

See notes to condensed consolidated financial statements.

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TAYLOR DEVICES, INC. AND SUBSIDIARY

Condensed Consolidated Statements of Income

| | (Unaudited) | |
|--|----------------------------|--------------------|
| | For the three months ended | |
| | August 31, 2008 | August 31, 2007 |
| Sales, net | \$ 4,803,502 | \$ 4,408,185 |
| Cost of goods sold | 3,523,715 | 2,719,114 |
| Gross profit | 1,279,787 | 1,689,071 |
| Selling, general and administrative expenses | 1,042,982 | 1,068,503 |
| Operating income | 236,805 | 620,568 |
| Other expense, net | (253) | (45,529) |
| Income before provision for income taxes, equity in net income of affiliate and minority stockholder's interest | 236,552 | 575,039 |
| Provision for income taxes | 87,900 | 221,700 |
| Income before equity in net income of affiliate and minority stockholder's interest | 148,652 | 353,339 |
| Equity in net income of affiliate | - | 4,589 |
| Income before minority stockholder's interest | 148,652 | 357,928 |
| Minority stockholder's interest | - | (9,698) |

| | | |
|---|-------------------|------------|
| Net income | \$ 148,652 | \$ 348,230 |
| Basic and diluted earnings per common share | \$ 0.05 | \$ 0.11 |

See notes to condensed consolidated financial statements.

TAYLOR DEVICES, INC. AND SUBSIDIARY

Condensed Consolidated Statements of Cash Flows

| | (Unaudited) | |
|--|----------------------------|--------------------|
| For the three months ended | August 31, 2008 | August 31, 2007 |
| Cash flows from operating activities: | | |
| Net income | \$ 148,652 | \$ 348,230 |
| Adjustments to reconcile net income to net cash flows from operating activities: | | |
| Depreciation and amortization | 98,920 | 88,477 |
| Gain of sale of equipment | (320) | (890) |
| Stock options issued for services | 28,114 | 37,741 |
| Equity in net income of affiliate | - | (4,589) |
| Minority stockholder's interest | - | 9,698 |
| Changes in other assets and liabilities: | | |
| Accounts receivable | (1,303,687) | (293,544) |
| Inventory | (71,148) | (915,556) |
| Costs and estimated earnings in excess of billings | (1,003,586) | 135,793 |
| Other current assets | 260,254 | (4,876) |
| Payables - trade | (59,824) | 267,187 |
| Accrued commissions | 134,481 | (8,796) |
| Billings in excess of costs and estimated earnings | - | 459,803 |
| Other current liabilities | 32,322 | (251,526) |
| Net cash flows for operating activities | (1,735,822) | (132,848) |
| Cash flows from investing activities: | | |
| Acquisition of property and equipment | (123,462) | (207,883) |
| Other investing activities | 25,185 | 25,787 |
| Net cash flows for investing activities | (98,277) | (182,096) |
| Cash flows from financing activities: | | |
| Net short-term borrowings and repayments on long-term debt | 1,852,934 | 587,425 |
| Payables - affiliate | - | (53,004) |
| Proceeds from issuance of common stock | 3,591 | 4,480 |
| Net cash flows from financing activities | 1,856,525 | 538,901 |

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| | | | |
|---------------------------------------|---|-------------------|------------|
| | Net increase in cash and cash equivalents | 22,426 | 223,957 |
| Cash and cash equivalents - beginning | | 110,720 | 22,748 |
| | Cash and cash equivalents - ending | \$ 133,146 | \$ 246,705 |

See notes to condensed consolidated financial statements.

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TAYLOR DEVICES, INC.

Notes to Condensed Consolidated Financial Statements

1. The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and with the instructions to Form 10-Q. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. In the opinion of the Company, the accompanying unaudited condensed consolidated financial statements contain all adjustments (consisting of only normal recurring accruals) necessary to present fairly the financial position as of August 31, 2008 and May 31, 2008, the results of operations for the three months ended August 31, 2008 and August 31, 2007, and cash flows for the three months ended August 31, 2008 and August 31, 2007. These financial statements should be read in conjunction with the audited financial statements and notes thereto contained in the Company's Annual Report to Shareholders for the year ended May 31, 2008. There have been no updates or changes to our audited financial statements for the year ended May 31, 2008.
2. There is no provision nor shall there be any provisions for profit sharing, dividends, or any other benefits of any nature at any time for this fiscal year.
3. For the three month periods ended August 31, 2008 and August 31, 2007 the net income was divided by 3,219,490 and 3,152,525, respectively, which is net of the Treasury shares, to calculate the net income per share.
4. The results of operations for the three month period ended August 31, 2008 are not necessarily indicative of the results to be expected for the full year.
5. Effective April 1, 2008, the Company merged with Tayco Developments, Inc. (Developments) following approval from shareholders of both companies. The Company is the surviving corporation. Under the terms of the Plan of Merger, each share of Developments' common stock was converted into one share of the Company's common stock. The Company had approximately a 23% equity investment in Developments prior to the merger.

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TAYLOR DEVICES, INC.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Cautionary Statement

The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward-looking statements. Information in this Item 2, "Management's Discussion of Financial Condition and Results of Operations," and elsewhere in this 10-Q that does not consist of historical facts, are "forward-looking statements." Statements accompanied or qualified by, or containing, words such as "may," "will," "should," "believes," "expects," "intends," "plans," "projects," "estimates," "predicts," "potential," "outlook," "forecast," "anticipates," "presume," and "assume" constitute forward-looking statements and, as such, are not a guarantee of future performance. The statements involve factors, risks and uncertainties, the impact or occurrence of which can cause actual results to differ materially from the expected results described in such statements. Risks and uncertainties can include, among others, fluctuations in general business cycles and changing economic conditions; changing product demand and industry capacity; increased competition and pricing pressures; advances in technology that can reduce the demand for the Company's products, as well as other factors, many or all of which may be beyond the Company's control. Consequently, investors should not place undue reliance on forward-looking statements as predictive of future results. The Company disclaims any obligation to release publicly any updates or revisions to the forward-looking statements herein to reflect any change in the Company's expectations with regard thereto, or any changes in events, conditions or circumstances on which any such statement is based.

Results of Operations

A summary of the period to period changes in the principal items included in the condensed consolidated statements of income is shown below:

Summary comparison of the three months ended August 31, 2008 and August 31, 2007

| | Increase / (Decrease) |
|--|--------------------------|
| Sales, net | \$ 395,000 |
| Cost of goods sold | \$ 805,000 |
| Selling, general and administrative expenses | \$ (26,000) |
| Other expense, net | \$ (45,000) |
| Income before provision for income taxes, equity in net income of affiliate and minority stockholder's interest | \$ (338,000) |
| Provision for income taxes | \$ (134,000) |
| Net income | \$ (200,000) |

Sales under certain fixed-price contracts, requiring substantial performance over several periods prior to commencement of deliveries, are accounted for under the percentage-of-completion method of accounting whereby revenues are recognized based on estimates of completion prepared on a ratio of cost to total estimated cost basis. Costs include all material and direct and indirect charges related to specific contracts.

Adjustments to cost estimates are made periodically and any losses expected to be incurred on contracts in progress are charged to operations in the period such losses are determined. However, any profits expected on contracts in progress are recognized over the life of the contract.

For financial statement presentation purposes, the Company nets progress billings against the total costs incurred on uncompleted contracts. The asset, "costs and estimated earnings in excess of billings," represents revenues recognized in excess of amounts billed. The liability, "billings in excess of costs and estimated earnings," represents billings in excess of revenues recognized.

For the three months ended August 31, 2008 (All figures discussed are for the three months ended August 31, 2008 as compared to the three months ended August 31, 2007.)

| | Three months ended | | Change | |
|---------------|--------------------|--------------------|-----------------------|-------------------|
| | August 31, 2008 | August 31, 2007 | Increase / (Decrease) | Percent Change |
| Net Revenue | \$ 4,803,000 | \$ 4,408,000 | \$ 395,000 | 9% |
| Cost of sales | 3,524,000 | 2,719,000 | 805,000 | 30% |
| Gross profit | \$ 1,279,000 | \$ 1,689,000 | \$ (410,000) | -24% |

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...as a percentage of net revenues 27% 38%

The Company's consolidated results of operations showed a 9% increase in net revenues and a decrease in net income of 57%. Revenues recorded in the current period for long-term construction projects were 19% less than the level recorded in the prior year. Revenues recorded in the current period for other-than long-term construction projects (non-projects) were up approximately \$839,000 or 41% over the level recorded in the prior year. This increase is primarily in sales of products to customers in aerospace and defense related fields and industrial customers. Gross profit decreased by 24%. The gross profit as a percentage of net revenues for the current and prior year periods was 27% and 38%. This fluctuation is attributable to a.) one large, domestic project that has a very low margin and b.) a few of the bigger non-project shipments in the quarter that helped increase sales for the quarter had low margins.

The Company's revenues and net income fluctuate from period to period. The fluctuations in comparing the current period to the prior period are not necessarily representative of future results.

Selling, General and Administrative Expenses

| | Three months ended | | Increase / (Decrease) | Change | |
|---------------------|--------------------|--------------------|--------------------------|-------------------|--|
| | August 31, 2008 | August 31, 2007 | | Percent Change | |
| Outside Commissions | \$ 202,000 | \$ 250,000 | \$ (48,000) | -19% | |
| Other SG&A | 841,000 | 819,000 | 22,000 | 3% | |
| Total SG&A | \$1,043,000 | \$ 1,069,000 | \$ (26,000) | -2% | |

...as a percentage of net revenues 22% 24%

Selling, general and administrative expenses decreased by 2% from the prior year. Outside commission expense decreased by 19% from last year's level. As a percentage of sales, outside commissions were 4.2% compared with 5.7% last year. This fluctuation was primarily in the non-projects where there was a higher than normal commission on an Asian order last year. This year's commissions are slightly lower than historical averages. Other selling, general and administrative expenses increased by only 3% from last year to this.

The above factors resulted in operating income of \$237,000 for the three months ended August 31, 2008, down 62% from the \$621,000 in the same period of the prior year.

Other expense, net, of less than \$1,000 is primarily interest expense and is \$45,000 less than in the prior year. The average level of use of the Company's operating line of credit during the period remained fairly constant as compared to the prior year period. The line of credit is used primarily to fund the production of larger projects that do not allow for advance payments or progress payments. Long-term debt is just under half of what it was as of August 31, 2007. Interest rates on the line of credit and most of the long-term debt is 3.25 percentage points lower than the rates in effect at August 31, 2007. These two factors combined to lower our interest expense for the quarter.

Stock Options

The Company has a stock option plan which provides for the granting of nonqualified or incentive stock options to officers, key employees and non-employee directors. Options granted under the plan are exercisable over a ten year term. Options not exercised at the end of the term expire.

The Company applies the stock option expensing rules of Statement of Financial Accounting Standards (SFAS) No. 123R, "Share Based Payment," using the fair value recognition provisions of SFAS No. 123, "Accounting for Stock-Based Compensation." The Company recognized \$28,000 and \$38,000 of compensation cost for the three month periods ended August 31, 2008 and August 31, 2007.

The fair value of each stock option grant has been determined using the Black-Scholes model. The model considers assumptions related to exercise price, expected volatility, risk-free interest rate, and the weighted average expected term of the stock option grants. Expected volatility assumptions utilized in the model were based on volatility of the Company's stock price for the thirty month period ending on the date of grant. The risk-free interest rate is derived from the U.S. treasury yield. The Company used a weighted average expected term. The following assumptions were used in the Black-Scholes model in estimating the fair market value of the Company's stock option grants:

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| | <u>August 31, 2008</u> | <u>August 31, 2007</u> |
|----------------------------------|------------------------|------------------------|
| Risk-free interest rate: | 5.000% | 3.625% |
| Expected life of the options: | 2.5 years | 2.5 years |
| Expected share price volatility: | 44.62% | 61.47% |
| Expected dividends: | zero | zero |

These assumptions resulted in:

| | | |
|---|--------|--------|
| Estimated fair-market value per stock option: | \$1.94 | \$2.47 |
|---|--------|--------|

The ultimate value of the options will depend on the future price of the Company's common stock, which cannot be forecast with reasonable accuracy.

A summary of changes in the stock options outstanding during the three month period ended August 31, 2008 is presented below:

| | <u>Number of Options</u> | <u>Weighted- Average Exercise Price</u> |
|---|------------------------------|---|
| Options outstanding and exercisable at May 31, 2008: | 120,500 | \$ 5.30 |
| Options granted: | 14,500 | \$ 6.04 |
| Options exercised: | none | - |
| Options expired: | none | - |
| Options outstanding and exercisable at August 31, 2008: | 135,000 | \$ 5.38 |

Capital Resources, Line of Credit and Long-Term Debt

The Company's primary liquidity is dependent upon the working capital needs. These are primarily inventory, accounts receivable, costs and estimated earnings in excess of billings, accounts payable, accrued commissions, billings in excess of costs and estimated earnings, and debt service. The Company's primary sources of liquidity have been operations and bank financing.

Capital expenditures for the three months ended August 31, 2008 were \$123,000 compared to \$208,000 in the same period of the prior year. As of August 31, 2008, the Company has commitments for capital expenditures totaling \$250,000 during the next twelve months.

The Company has a \$5,000,000 line of credit with a bank. There is a \$2,818,000 principal balance outstanding as of August 31, 2008, compared to the \$879,000 balance outstanding as of May 31, 2008. The outstanding balance on the line of credit will fluctuate as the Company's various long-term projects progress. The Company is in compliance with restrictive covenants under the line of credit and other financing arrangements, including Niagara County Industrial Development Agency Bond financing.

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Principal maturities of long-term debt for the remainder of the current fiscal year and the subsequent five years are as follows: 2009 - \$51,000; 2010 - \$72,000; 2011 - \$27,000; 2012 - \$27,000; and 2013 - \$20,000.

Inventory and Maintenance Inventory

| | | | <u>August 31, 2008</u> | | <u>May 31, 2008</u> | <u>Increase / (Decrease)</u> |
|---------------------------------|-------------|------|------------------------|------|---------------------|------------------------------|
| Raw Materials | \$ 447,000 | | \$ 436,000 | | \$ 11,000 | 3% |
| Work in process | 5,955,000 | | 5,811,000 | | 144,000 | 2% |
| Finished goods | 320,000 | | 378,000 | | (58,000) | -15% |
| Inventory | 6,722,000 | 89% | 6,625,000 | 88% | 97,000 | 1% |
| Maintenance and other inventory | 861,000 | 11% | 888,000 | 12% | (27,000) | -3% |
| Total | \$7,583,000 | 100% | \$7,513,000 | 100% | \$ 70,000 | 1% |

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Inventory turnover 1.9 1.9

NOTE: Inventory turnover is annualized for the three month period ended August 31, 2008.

Inventory, at \$6,722,000 as of August 31, 2008, is 1% higher than the prior year-end. Of this, approximately 89% is work in process, 5% is finished goods, and 6% is raw materials.

Maintenance and other inventory represent stock that is estimated to have a product life cycle in excess of twelve months. This stock represents certain items the Company is required to maintain for service of products sold and items that are generally subject to spontaneous ordering. This inventory is particularly sensitive to technological obsolescence in the near term due to its use in industries characterized by the continuous introduction of new product lines, rapid technological advances and product obsolescence. The maintenance inventory decreased slightly since May 31, 2008. Management of the Company has recorded an allowance for potential inventory obsolescence. The provision for potential inventory obsolescence was \$45,000 for each of the three month periods ended August 31, 2008 and 2007. The Company continues to rework slow-moving inventory, where applicable, to convert it to product to be used on customer orders.

Accounts Receivable, Costs and Estimated Earnings in Excess of Billings, and Billings in Excess of Costs and Estimated Earnings

| | August 31, 2008 | May 31, 2008 | Increase /(Decrease) | |
|--|------------------------|---------------------|-----------------------------|-----|
| Accounts receivable | \$ 3,413,000 | \$ 2,109,000 | \$ 1,304,000 | 62% |
| Costs and estimated earnings in excess of billings | 2,760,000 | 1,756,000 | 1,004,000 | 57% |
| Less: Billings in excess of costs and estimated earnings | - | - | - | |
| Net | \$ 6,173,000 | \$ 3,865,000 | \$ 2,308,000 | 60% |

The Company combines the totals of accounts receivable, the asset "costs and estimated earnings in excess of billings", and the liability, "billings in excess of costs and estimated earnings", to determine how much cash the Company will eventually realize from revenue recorded to date. As the accounts receivable figure rises in relation to the other two figures, the Company can anticipate increased cash receipts within the ensuing 30-60 days.

Accounts receivable of \$3,413,000 as of August 31, 2008 includes approximately \$348,000 of amounts retained by customers on long-term construction projects ("Project(s)"). The Company expects to collect all of these amounts, including the retainage, during the next twelve months.

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As noted above, the current asset, "costs and estimated earnings in excess of billings," represents revenues recognized in excess of amounts billed. Whenever possible, the Company negotiates a provision in sales contracts to allow the Company to bill, and collect from the customer, payments in advance of shipments. Unfortunately, provisions such as this are often not possible. The \$2,760,000 balance in this account at August 31, 2008 is 57% more than the prior year-end. Generally, if progress billings are permitted under the terms of a Project sales agreement, the more complete the Project is, the more progress billings will be permitted. The Company expects to bill the entire amount during the next twelve months.

The balances in this account are comprised of the following components:

| | <u>August 31, 2008</u> | <u>May 31, 2008</u> |
|--|-------------------------------|----------------------------|
| Costs | \$ 3,000,000 | \$ 1,711,000 |
| Estimated earnings | 773,000 | 372,000 |
| Less: Billings to customers | 1,013,000 | 327,000 |
| Costs and estimated earnings in excess of billings | \$ 2,760,000 | \$ 1,756,000 |
| Number of Projects in progress | 10 | 7 |

Summary of factors affecting the year-end balances in the asset "costs and estimated earnings in excess of billings", and the liability, "billings in excess of costs and estimated earnings":

| | <u>August 31, 2008</u> | <u>May 31, 2008</u> |
|---|-------------------------------|----------------------------|
| Number of Projects in progress | 10 | 7 |
| Aggregate percent complete | 66% | 45% |
| Average total sales value of Projects in progress | \$567,000 | \$667,000 |

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| | | |
|--|-----|----|
| Percentage of total value invoiced to customer | 18% | 7% |
|--|-----|----|

Other Balance Sheet Items

The Company's backlog of sales orders at August 31, 2008 is \$9.5 million, down from the \$11.4 million backlog value at the end of the prior year. \$1.9 million of the current backlog is on long-term construction projects already in progress.

Other current assets, which is primarily comprised of deferred taxes and prepaid expenses, decreased by 21% to \$1,074,000. This change is mostly due to a reduction in the prepaid expenses as they are expensed in the normal course of business. Accounts payable, at \$1,126,000 as of August 31, 2008, is approximately 5% less than the prior year-end. This balance will fluctuate as the requirement to purchase goods and services fluctuates, which is driven in part by the level of long-term construction project activity.

Commission expense on applicable sales orders is recognized at the time revenue is recognized. The commission is paid following receipt of payment from the customers. Accrued commissions as of August 31, 2008 are \$527,000, up 34% from the \$393,000 accrued at the prior year-end. The Company expects the current accrued amount to be paid during the next twelve months. Other current liabilities increased by \$32,000 from the prior year-end, to \$967,000. Payments on these liabilities will take place as scheduled within the next twelve months.

Management believes the Company's cash flows from operations and borrowing capacity under the bank line of credit is sufficient to fund ongoing operations, capital improvements and share repurchases for the next twelve months.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Smaller reporting companies are not required to provide the information called for by this item.

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TAYLOR DEVICES, INC.

Item 4T. Controls and Procedures

(a) *Evaluation of disclosure controls and procedures.*

The Company's principal executive officer and principal financial officer have evaluated the Company's disclosure controls and procedures as of August 31, 2008 and have concluded that as of the evaluation date, the disclosure controls and procedures were effective to ensure that material information relating to the Company was made known to the officers by others within the Company.

(b) *Changes in internal controls.*

There have been no changes in the Company's internal controls over financial reporting that occurred during the fiscal quarter ended August 31, 2008 that have materially affected, or are reasonably likely to materially affect, the Company's control over financial reporting.

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TAYLOR DEVICES, INC.

Part II - Other Information

ITEM 1 Legal Proceedings

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The State of New York Workers Compensation Board ("Board") commenced a lawsuit against the Company and 264 other entities in May 2008, seeking to recover funds allegedly owed in connection with the Company's participation in the Manufacturing Self-Insurance Trust ("Trust"). Among the Board's claims are that (i) the Trust provided workers compensation self-insurance to its participating members, including the Company, from April 22, 1997 to August 31, 2006; (ii) the Board has assumed control of the Trust; (iii) the Trust's liabilities exceed its assets by approximately \$29,000,000; and (iv) the Company and the other participating members are jointly and severally liable for the alleged deficit. The Board claims that it has calculated a rough estimate of each participating member's current share of the deficit, which, for the Company, is alleged to be in excess of \$79,555. The Board also claims, however, that the Company and the other 264 participating members could be jointly and severally responsible for sums substantially in excess of the Board's rough estimates.

The Company denies the Board's claims that the Company owes the amounts sought. The lawsuit was recently commenced, and the Company's investigation into the factual allegations of the lawsuit continues. It appears that the Board is performing additional forensic audits regarding the Trust, in order to more accurately determine the amounts allegedly owed by the participating members.

Management intends to vigorously defend the claim and has joined with other participating members in a joint defense against the lawsuit. It is anticipated that the Company, together with other defendants, will conduct an independent forensic audit of the Trust's liabilities and assets. It is also anticipated that the Company will challenge the legal and contractual basis for the Board's claims.

There are no other legal proceedings except for routine litigation incidental to the business.

ITEM Risk Factors

1A

Smaller reporting companies are not required to provide the information called for by this item.

ITEM 2 Unregistered Sales of Equity Securities and Use of Proceeds

- (a) The Company sold no equity securities during the fiscal quarter ended August 31, 2008 that were not registered under the Securities Act.
- (b) Use of proceeds following effectiveness of initial registration statement:

Not Applicable

- (c) Repurchase of Equity Securities

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| <i>Period</i> | <i>(a) Total Number of Shares Purchased</i> | <i>(b) Average Price Paid Per Share</i> | <i>(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</i> | <i>(d) Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs</i> |
|----------------------------------|---|---|---|---|
| June 1, 2008 - June 30, 2008 | - | - | - | |
| July 1, 2008 - July 31, 2008 | - | - | - | |
| August 1, 2008 - August 31, 2008 | - | - | - | |
| Total | - | - | - | \$160,802 (1) |

(1) In 1998, the Company initiated a plan to purchase shares of its outstanding common stock through open market purchases, with an initial deposit to the program of \$225,000. Additional deposits totaling \$435,000 have been made to the plan, with expenditures of \$499,198. To date, a total of 164,696 shares have been purchased at an average price per share of \$3.03.

(d) Under the terms of the Company's credit arrangements with its primary lender, the Company is prohibited from issuing cash dividends. In addition, the credit arrangements require the Company to maintain net working capital of at least \$2,000,000 and tangible net worth of at least \$6,000,000, as such terms are defined in the credit documents. On August 31, 2008, under such definitions the Company's net working capital and tangible net worth were significantly in excess of such limits.

ITEM 3 Defaults Upon Senior Securities

None

ITEM 4 Submission of Matters to Vote of Securities Holders

None

ITEM 5 Other Information

(a) Information required to be disclosed in a Report on Form 8-K, but not reported

None

(b) Material changes to the procedures by which Security Holders may recommend nominees to the Registrant's Board of Directors

None

ITEM 6 Exhibits

31(i) Rule 13a-14(a) Certification of Chief Executive Officer.

31(ii) Rule 13a-14(a) Certification of Chief Financial Officer.

32(i) Section 1350 Certification of Chief Executive Officer.

32(ii) Section 1350 Certification of Chief Financial Officer.

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Taylor Devices, Inc.

We have reviewed the accompanying condensed consolidated balance sheet of Taylor Devices, Inc. and Subsidiary as of August 31, 2008, the related condensed consolidated statements of income for the three months ended August 31, 2008 and August 31, 2007 and cash flows for the three months ended August 31, 2008 and August 31, 2007. These interim financial statements are the responsibility of the Company's management.

We conducted our reviews in accordance with standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with standards of the Public Company Accounting Oversight Board, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to the accompanying interim condensed consolidated financial statements referred to above for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet as of May 31, 2008, and the related consolidated statements of income, changes in stockholders' equity, and cash flows for the year then ended (not presented herein); and in our report dated August 1, 2008, we expressed an unqualified opinion on those financial statements. In our opinion, the information set forth in the accompanying condensed consolidated balance sheet as of May 31, 2008 is fairly stated, in all material respects, in relation to the balance sheet from which it has been derived.

Lumsden & McCormick, LLP
Buffalo, New York
October 1, 2008

TAYLOR DEVICES, INC.
Signatures

In accordance with the requirements of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

TAYLOR DEVICES, INC.
(Registrant)

Date: October 9, 2008

s/Douglas P. Taylor
Douglas P. Taylor
President
Chairman of the Board of Directors
(Principal Executive Officer)

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Date: October 9, 2008

s/Mark V. McDonough
Mark V. McDonough
Chief Financial Officer