

NUVASIVE INC
Form 8-K/A
October 29, 2010

Table of Contents

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 8-K/A**

Current Report

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

Date of Report (Date of earliest event reported): October 28, 2010

NUVASIVE, INC.

(Exact name of registrant as specified in its charter)

| | | |
|--|---|---|
| Delaware (State or Other Jurisdiction of Incorporation) | 000-50744 (Commission File Number) | 33-0768598 (I.R.S. Employer Identification Number) |
| 7475 Lusk Boulevard, San Diego, California 92121 (Address of principal executive offices, with zip code) | | |
| (858) 909-1800 (Registrant's telephone number, including area code) | | |

n/a

(Former name or former address, if changed since last report)

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

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

TABLE OF CONTENTS

Item 2.02 Results of Operations and Financial Condition and

Item 7.01 Regulation FD Disclosure

Item 9.01 Financial Statements and Exhibits

SIGNATURES

Item 9.01 Financial Statements and Exhibits

EX-99.1

Table of Contents**EXPLANATORY NOTE**

This Form 8-K/A (the Amendment) is being filed to correct an error contained in the original Exhibit 99.1 (Press Release dated October 28, 2010) to the Form 8-K filed with the Securities and Exchange Commission by NuVasive, Inc. (the Company) on October 28, 2010 (the Original 8-K). The Company wishes to correct an error in the 2010 Tax Adjustments & WASO Guidance (millions) table that was presented on page 4 of the Press Release to correct the Effective Tax Rate (ETR) for Q4 from ~12% to ~15.5%. Item 99.1 to the Initial Report is amended and reated in its entirety to reference the corrected Press Release, as attached to this Amendment. This Form 8-K/A does not amend any other items in the Original 8-K or the Press Release.

Item 2.02 Results of Operations and Financial Condition and**Item 7.01 Regulation FD Disclosure**

On October 28, 2010, NuVasive, Inc. issued a press release announcing its financial results for the quarter ended September 30, 2010. The following 2010 Tax Adjustments & WASO Guidance (millions) table, which appeared on page 4 of Exhibit 99.1 (Press Release dated October 28, 2010) to the Original 8-K, is revised to correct the Effective Tax Rate (ETR) for Q4 from ~ 12% number to ~ 15.5% . A copy of the corrected press release is furnished as Exhibit 99.1.

2010 Tax Adjustments & WASO Guidance (millions)

| | Q1 - Q3 | Q4 | FY10 |
|---|----------------|-------------|-------------|
| Effective Tax Rate (ETR)* | ~ 8.5% | ~ 15.5% | ~ 12% |
| Reversal of remaining valuation allowance | | ~ \$ (45.0) | ~ \$ (45.0) |
| Weighted average shares Diluted | 41.0 | ~ 46.0 | ~ 46.0 |

* *ETR to be used on a pre-tax income prior to reversal of remaining valuation allowance*

Item 9.01 Financial Statements and Exhibits**(d) Exhibits**

99.1 Corrected press release dated October 28, 2010, announcing financial results for the quarter ended September 30, 2010 (furnished only)

Table of Contents

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.

NUVASIVE, INC.

Date: October 29, 2010

By: /s/ **Alexis V. Lukianov**
Alexis V. Lukianov
Chairman and Chief Executive Officer

Table of Contents

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

- 99.1 Corrected press release dated October 28, 2010, announcing financial results for the quarter ended September 30, 2010 (furnished only)