UST INC
Form 10-Q
August 04, 2005

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549-1004
FORM 10-Q

(Mark One)

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

For quarterly period ended June 30, 2005

OR

o **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 0-17506

UST Inc.

(Exact name of registrant as specified in its charter)

Delaware	06-1193986
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
100 West Putnam Avenue, Greenwich, CT	06830
(Address of principal executive offices)	(Zip Code)

Registrant s telephone number, including area code: (203) 661-1100

NONE

(Former name, former address and former fiscal year, if changed since last report.)

Indicate by check mark whether 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 registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes þ No o

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes þ No o

Number of Common shares ($.50 par value) outstanding at June 30, 2005 164,370,291

UST Inc.
(Registrant or the Company)
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UST Inc.
CONDENSED CONSOLIDATED STATEMENT OF FINANCIAL POSITION
(Dollars in thousands, except per share data)

	June 30, 2005 (Unaudited)	December 31, 2004 (Note)
Assets:		
Current assets:		
Cash and cash equivalents	$ 159,405	$ 450,202
Short-term investments	34,750	60,000
Accounts receivable	48,490	41,462
Inventories:		
Leaf tobacco	193,126	205,646
Products in process	170,940	208,935
Finished goods	158,413	134,662
Other materials and supplies	19,341	17,917
Total inventories	541,820	567,160
Deferred income taxes	27,850	29,597
Assets held for sale	17,030	
Prepaid expenses and other current assets	27,801	24,712
Total current assets	857,146	1,173,133
Property, plant and equipment, net	416,066	421,848
Other assets	56,264	64,502
Total assets	$ 1,329,476	$ 1,659,483
Liabilities and Stockholders Equity:		
Current liabilities:		
Current portion of long-term debt	$	$ 300,000
Accounts payable and accrued expenses	159,438	226,281
Income taxes payable	44,072	66,003
Litigation liability	35,493	26,589
Total current liabilities	239,003	618,873
Long-term debt	840,000	840,000
Postretirement benefits other than pensions	84,999	81,874
Pensions	99,061	95,052
Deferred income taxes	2,786	9,645
Other liabilities	3,822	4,474
Total liabilities	1,269,671	1,649,918
Stockholders equity:		
Capital stock(1)	103,504	105,777
Additional paid-in capital	928,106	885,049

Retained earnings	401,156	492,800
Accumulated other comprehensive loss	(19,185)	(19,911)
	1,413,581	1,463,715
Less treasury stock - 42,636,986 shares in 2005 and 46,948,011 shares in 2004	1,353,776	1,454,150
Total stockholders equity	59,805	9,565
Total liabilities and stockholders equity	$ 1,329,476	$ 1,659,483

(1) Common Stock par value $.50 per share: Authorized 600 million shares; Issued 207,007,277 shares in 2005 and 211,554,946 shares in 2004. Preferred Stock par value $.10 per share: Authorized 10 million shares; Issued None.

Note: The condensed consolidated statement of financial position at December 31, 2004 has been derived from the audited financial statements at that date.

See notes to condensed consolidated financial statements.

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UST Inc.
CONDENSED CONSOLIDATED STATEMENT OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2005	2004	2005	2004
Net sales	$480,116	$464,652	$920,643	$897,969
Costs and expenses:				
Cost of products sold	97,237	86,597	186,160	168,562
Excise taxes	12,789	12,059	24,270	23,348
Selling, advertising and administrative	133,191	123,155	268,998	250,709
Antitrust litigation	12,529		12,529	
Total costs and expenses	255,746	221,811	491,957	442,619
Operating income	224,370	242,841	428,686	455,350
Interest, net	11,977	19,548	28,368	38,957
Earnings from continuing operations before income taxes	212,393	223,293	400,318	416,393
Income tax expense	75,868	69,394	141,961	139,922
Earnings from continuing operations	136,525	153,899	258,357	276,471
Loss from discontinued operations (including income tax expense of $2,890 and $2,490, respectively)		(6,006)		(6,889)
Net earnings	$136,525	$147,893	$258,357	$269,582
Net earnings per basic share:				
Earnings from continuing operations	$ .83	$ .93	$ 1.57	$ 1.67
Loss from discontinued operations		(.04)		(.04)
Net earnings per basic share	$ .83	$ .89	$ 1.57	$ 1.63
Net earnings per diluted share:				
Earnings from continuing operations	$ .82	$ .92	$ 1.55	$ 1.66
Loss from discontinued operations		(.03)		(.04)
Net earnings per diluted share	$ .82	$ .89	$ 1.55	$ 1.62
Dividends per share	$ .55	$ .52	$ 1.10	$ 1.04

Average number of shares:				
Basic	164,575	165,313	164,670	165,353
Diluted	166,194	166,569	166,608	166,669

See notes to condensed consolidated financial statements.

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UST Inc.
CONDENSED CONSOLIDATED STATEMENT OF CASH FLOWS
(In thousands)
(Unaudited)

	Six Months Ended June 30, 2005	Six Months Ended June 30, 2004
Operating Activities:		
Net earnings	$ 258,357	$ 269,582
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	22,376	21,241
Stock-based compensation expense	3,182	242
Loss on disposition of property, plant and equipment	1,230	123
Deferred income taxes	(5,503)	45,331
Changes in operating assets and liabilities:		
Accounts receivable	(7,028)	27,931
Inventories	25,340	14,157
Prepaid expenses and other assets	4,558	5,643
Accounts payable, accrued expenses, pensions and other liabilities	(59,355)	(35,259)
Tax benefits from the exercise of stock options	13,884	6,011
Income taxes	(21,931)	70,378
Litigation liability	8,904	(208,628)
Net cash provided by operating activities	244,014	216,752
Investing Activities:		
Short-term investments, net	25,250	(65,000)
Purchases of property, plant and equipment	(37,379)	(14,851)
Dispositions of property, plant and equipment	3,116	1,269
Net cash used in investing activities	(9,013)	(78,582)
Financing Activities:		
Repayment of debt	(300,000)	
Proceeds from the issuance of stock	55,781	49,847
Dividends paid	(181,530)	(172,173)
Stock repurchased	(100,049)	(74,948)
Net cash used in financing activities	(525,798)	(197,274)
Decrease in cash and cash equivalents	(290,797)	(59,104)
Cash and cash equivalents at beginning of year	450,202	438,040
Cash and cash equivalents at end of the period	$ 159,405	$ 378,936

Supplemental disclosure of cash flow information:		
Cash paid during the period for:		
Income taxes	$ 155,856	$ 22,141
Interest	41,775	41,775

See notes to condensed consolidated financial statements.

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UST Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
June 30, 2005
(Unaudited)

(In thousands, except per share amounts or where otherwise noted)

BASIS OF PRESENTATION

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles (GAAP) for complete financial statements. Management believes that all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. The condensed consolidated financial statements include the accounts of the Company and all of its subsidiaries after the elimination of intercompany accounts and transactions. Certain prior year amounts have been reclassified to conform to the 2005 financial statement presentation. Operating results for the three and six month periods ended June 30, 2005, respectively, are not necessarily indicative of the results that may be expected for the year ended December 31, 2005. For further information, refer to the consolidated financial statements and footnotes thereto included in the Company s Annual Report on Form 10-K for the year ended December 31, 2004 (2004 Form 10-K).

In connection with the transfer of the Company s cigar operation to a smokeless tobacco competitor in June of 2004, pursuant to an agreement to resolve an antitrust action, the results for the cigar operation are presented as Discontinued Operations in the 2004 condensed consolidated statement of operations.

ACCOUNTING PRONOUNCEMENTS

In June 2005, the Financial Accounting Standards Board (FASB) issued FASB Statement No. 154 (Statement 154), *Accounting Changes and Error Corrections a replacement of APB Opinion No. 20 and FASB Statement No. 3*. Accounting Principles Board (APB) Opinion No. 20 previously required that most voluntary changes in accounting principle be recognized by including in net income of the period of the change the cumulative effect of changing to the new accounting principle. Statement 154 requires retrospective application to prior periods financial statements of changes in accounting principle, unless it is impracticable to determine either the period-specific effects or the cumulative effect of the change. Statement 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005 or the Company s first quarter ended March 31, 2006. The Company does not expect the adoption of Statement 154 to have a material impact on its consolidated financial statements.

In December 2004, the FASB issued Statement No. 123 (Revised 2004), or Statement 123(R), *Share-Based Payment*, which is a revision of Statement No. 123, *Accounting for Stock-Based Compensation*. Statement 123(R) supersedes APB Opinion No. 25, *Accounting for Stock Issued to Employees*, and amends Statement No. 95, *Statement of Cash Flows*. The approach in Statement 123(R) is similar to the approach described in Statement 123; however, Statement 123(R) requires all share-based payments to employees, including grants of employee stock options, to be recognized in the statement of operations based on their fair values. Pro forma disclosure, as allowed under Statement No. 123, will no longer be an alternative.

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UST Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)
ACCOUNTING PRONOUNCEMENTS (Continued)

In April 2005, the Securities and Exchange Commission (SEC) announced the adoption of a new rule that amends the compliance dates for Statement 123(R). The SEC s new rule allows companies to implement Statement No. 123(R) at the beginning of their next fiscal year, instead of the next reporting period, that begins after June 15, 2005. At the present time, the Company plans to adopt Statement 123(R) for the period beginning January 1, 2006.

As permitted by Statement 123, the Company currently accounts for share-based payments to employees and non-employee directors using the intrinsic value method prescribed in APB Opinion No. 25. The Company grants stock options with exercise prices equal to the respective grant date s fair market value and, as such, recognizes no compensation cost for such stock options. The impact of adoption of Statement 123(R) cannot be predicted at this time because it will depend on levels of share-based payments granted in the future, among other factors. Statement 123(R) also requires the benefits of tax deductions in excess of recognized compensation cost to be reported as a financing cash flow, rather than as an operating cash flow as required under current literature. This requirement will reduce net operating cash flows and increase net financing cash flows in periods after adoption. The Company is currently evaluating the impact that the adoption of Statement 123(R) will have on its consolidated results of operations, financial position and cash flows.

In December 2004, the FASB issued Staff Position (FSP) 109-1, *Application of FASB Statement No. 109, Accounting for Income Taxes, to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004* (the Jobs Creation Act) and FSP 109-2, *Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004*. FSP 109-1 requires that the tax deduction provided under the Jobs Creation Act for income attributable to qualified domestic production activities be accounted for as a special deduction under Statement 109. This special deduction is recognized under Statement 109 as it is earned. For the second quarter and first six months of 2005, the Company recognized a tax benefit related to a deduction attributable to qualified domestic production activities. FSP 109-2 provides that additional time beyond the financial reporting period of enactment should be allowed to evaluate the effect of the Jobs Creation Act on a company s plan for repatriation or reinvestment of foreign earnings, unless the company has recognized a deferred tax liability for some or all of its unremitted foreign earnings. The Company has evaluated the effects of the repatriation provision and, at this time, does not expect that such provision will have a material impact on its condensed consolidated financial statements.

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UST Inc.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

CAPITAL STOCK

The Company repurchased 1,070,350 shares of outstanding common stock at a cost of approximately $50 million during the quarter ended June 30, 2005, of which 64,000 shares were repurchased at prevailing market prices directly from the trust established for the Company s qualified defined benefit pension plans. During the first six months of 2005, the Company repurchased 2,026,250 shares of outstanding common stock at a cost of approximately $100 million. Of the total shares repurchased in the six months ended June 30, 2005, 1,651,989 shares were repurchased pursuant to the Company s authorized program, approved in October 1999, to repurchase its outstanding common stock up to a maximum of 20 million shares. Repurchases under this program resulted in a total cost of $646.2 million. In December 2004, the Company s Board of Directors authorized a new program under which the Company may repurchase up to 20 million additional shares of its outstanding common stock. As of June 30, 2005, 374,261 shares have been repurchased at a cost of approximately $17 million under the new program.

In May 2005, the Company authorized that 10 million shares of its common stock be reserved for issuance under the 2005 Long Term Incentive Plan, which was approved by stockholders at the Company s Annual Meeting on May 3, 2005. Of the total shares reserved, 6.3 million shares of the Company s treasury stock were retired for this purpose. The remaining 3.7 million shares, which had been retired in previous years from the Company s treasury stock, in connection with the establishment of the UST Inc. Amended and Restated Stock Incentive Plan, the Nonemployee Directors Stock Option Plan and the Nonemployee Directors Restricted Stock Award Plan, are available for issuance under the 2005 Long Term Incentive Plan. Refer to the Company s Notice of 2005 Annual Meeting of Stockholders and Proxy Statement for further information regarding the 2005 Long Term Incentive Plan.

STOCK-BASED COMPENSATION

In accordance with Statement of Financial Accounting Standards (SFAS) No. 123, *Accounting for Stock Based Compensation*, the Company accounts for its employee stock compensation plans using the intrinsic value-based method prescribed by APB Opinion No. 25, *Accounting for Stock Issued to Employees.* Stock-based compensation expense recognized in the second quarter and first six months of 2005 is related to common stock awarded to non-employee members of the Board of Directors as part of each member s aggregate annual retainer, as well as to common stock and restricted stock awarded to non-employee directors and restricted stock and restricted stock units awarded to employees. Stock-based compensation expense recorded in the second quarter and first six months of 2004 related to restricted stock awarded to both employees and non-employee directors.

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UST Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)
STOCK-BASED COMPENSATION (Continued)

Consistent with the method described in SFAS No. 123, if compensation expense for the Company s plans had been determined based on the fair value at the grant dates for awards under its plans, net earnings and earnings per share would have been reduced to the pro forma amounts indicated as follows:

	Three months ended June 30,		Six months ended June 30,	
	2005	2004	2005	2004
Net earnings:				
As reported	$ 136,525	$ 147,893	$ 258,357	$ 269,582
Add:				
Total stock-based compensation expense included in reported net income, net of related tax effect	786	79	2,068	157
Deduct:				
Total stock-based compensation expense determined under the fair value method for all awards, net of related tax effect	(2,114)	(1,122)	(3,421)	(2,260)
Pro forma	$ 135,197	$ 146,850	$ 257,004	$ 267,479
Basic earnings per share:				
As reported	$ .83	$ .89	$ 1.57	$ 1.63
Pro forma	$ .82	$ .89	$ 1.56	$ 1.62
Diluted earnings per share:				
As reported	$ .82	$ .89	$ 1.55	$ 1.62
Pro forma	$ .81	$ .88	$ 1.54	$ 1.61

Certain of the stock awards granted to employees, including options and restricted stock grants, contain a provision for the acceleration of vesting of unvested shares upon the employee s retirement. Under Statement 123(R), for awards subsequent to January 1, 2006, companies must revise their expense recognition approach to record the cost of awards to retirement-eligible employees to the shorter of the original award s vesting period or the time until the employee becomes retirement-eligible. The Company does not anticipate that the retirement eligibility provision under Statement 123(R) will have a material impact on its results of operations, once effective. Furthermore, had the Company historically recognized stock-based compensation cost for retirement-eligible employees under this accelerated method, the difference in pro forma stock based compensation expense, net of tax, for each of the periods presented above, would not have been material.

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UST Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)
EMPLOYEE BENEFIT PLANS

In accordance with SFAS No. 132, *Employers Disclosures about Pensions and Other Postretirement Benefits (Revised 2003)*, the following provides the components of net periodic benefit cost for the three and six months ended June 30, 2005 and 2004:

	Pension Plans		Postretirement Benefits Other than Pensions	
Three months ended June 30,	2005	2004	2005	2004
Service cost	$ 4,569	$ 4,155	$1,435	$ 1,254
Interest cost	7,405	6,846	1,333	1,286
Expected return on plan assets	(6,553)	(5,797)		
Amortization of unrecognized transition obligation	(2)	(2)		
Amortization of prior service cost		(11)	(534)	(1,159)
Recognized actuarial loss	1,373	1,727	285	90
Net periodic benefit cost	$ 6,792	$ 6,918	$2,519	$ 1,471

	Pension Plans		Postretirement Benefits Other than Pensions	
Six months ended June 30,	2005	2004	2005	2004
Service cost	$ 9,527	$ 8,730	$ 2,880	$ 2,508
Interest cost	14,940	14,204	2,674	2,541
Expected return on plan assets	(13,046)	(11,941)		
Amortization of unrecognized transition obligation	(4)	(4)		
Amortization of prior service cost	(1)	(22)	(1,071)	(2,279)
Recognized actuarial loss	2,921	3,714	572	234
Net periodic benefit cost	$ 14,337	$ 14,681	$ 5,055	$ 3,004

As previously disclosed in the 2004 Form 10-K, the Company expects to contribute $6.1 million to its non-qualified defined benefit pension plans in 2005.

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UST Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)
INCOME TAXES

The Company s income tax provision takes into consideration pre-tax income, statutory tax rates and the Company s tax profile in the various jurisdictions in which it operates. The tax bases of the Company s assets and liabilities reflect its best estimate of the future tax benefit and costs it expects to realize when such amounts are included in its tax returns. Quantitative and probability analysis, which incorporates management s judgment, is required in determining the Company s effective tax rate and in evaluating its tax positions. Notwithstanding the fact that all of the Company s tax filing positions are supported by the requisite tax and legal authority, accruals are established in accordance with SFAS No. 5, *Accounting for Contingencies,* when the Company believes that these positions are likely to be subject to challenge by a tax authority.

The Internal Revenue Service (IRS) and other tax authorities audit the Company s income tax returns on a continuous basis. Depending on the tax jurisdiction, a number of years may elapse before a particular matter for which the Company has established an accrual is audited and ultimately resolved. While it is often difficult to predict the timing of tax audits and their final outcome, the Company believes that its accruals reflect the probable outcome of known tax contingencies. However, the final resolution of any such tax audit could result in either a reduction in the Company s accruals or an increase in its income tax provision, both of which could have a significant impact on the results of operations in any given period. The Company continually and regularly evaluates, assesses and adjusts these accruals in light of changing facts and circumstances, which could cause the effective tax rate to fluctuate from period to period.

Results for the periods presented on the condensed consolidated statement of operations reflect the net reversal of income tax accruals of $4 million and $15.8 million, net of federal income tax benefit, for the second quarter of 2005 and 2004, respectively, and $8.7 million and $18.9 million, net of federal income tax benefit, for the first six months of 2005 and 2004, respectively, due to changes in facts and circumstances, including the settlement of various income tax audits by the IRS and other taxing authorities and lapses of statutes of limitation. The Company s effective tax rate increased to 35.7 percent and 35.5 percent in the second quarter and first six months of 2005, respectively, from 31.1 percent and 33.6 percent in the corresponding 2004 periods, primarily as a result of the higher level of accrual reversals in 2004, partially offset by the effect in both 2005 periods of a tax deduction available for qualified domestic production activities, which was enacted by the American Jobs Creation Act of 2004 and is accounted for under FSP 109-1.

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UST Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)
SEGMENT INFORMATION
The Company s reportable segments are Smokeless Tobacco and Wine. Those business units that do not meet quantitative reportable thresholds are included in All Other operations. Included in All Other operations for both periods are the Company s international operations. Interim segment information is as follows:

	Three months ended June 30,		Six months ended June 30,	
	2005	2004	2005	2004
Net Sales to Unaffiliated Customers:				
Smokeless Tobacco	$410,940	$407,169	$789,659	$786,390
Wine	58,700	48,219	110,291	93,538
All Other	10,476	9,264	20,693	18,041
Net sales	$480,116	$464,652	$920,643	$897,969 TD>Certification.

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of the securities and were not acquired and are not held in connection with or as a

participant
in any
transaction
having that
purpose or
effect.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: February 15, 2017

RTW Investments, LP

By:*/s/ Roderick Wong*
Roderick Wong, Managing Partner

RTW Master Fund, Ltd.

By:*/s/ Roderick Wong*
Roderick Wong, Director

Roderick Wong

By:*/s/ Roderick Wong*
Roderick Wong, Individually

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative other than an executive officer or general partner of the filing person, evidence of the representative's authority to sign on behalf of such person shall be filed with the statement, provided, however, that a power of attorney for this purpose which is already on file with the Commission may be incorporated by reference. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Note. Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See s.240.13d-7 for other parties for whom copies are to be sent.

Attention. Intentional misstatements or omissions of fact constitute Federal criminal violations (see 18 U.S.C. 1001).