PRC IIT late reporting and compliance issues

Q: I am working for a trading firm in HK and also have a China office established over 15 years. Many of our Hong Kong staff need to station in China as well as some are frequently travel. We didn't report the tax to the China part and now we want to put it a right approach. Should we have to pay for the PRC IIT we missed in the past? How can we report the PRC IIT, and should our staff pay for the tax by monthly or yearly? How's the calculation? & how to calculate their in & out town?

A: You should note that the tax liabilities might be very significant in this case. Since your company has employees who station in China to perform the duty. The individual income tax should be payable on a monthly basis. The PRC Law for Tax Levy and Administration and the PRC Individual Income Tax Law provide that in case of late declaration and late payment of tax, the taxpayer should pay a daily surcharge at 0.05% of the outstanding tax. In addition, if the taxpayer has failed to declare the income tax, there will be a penalty ranging from 50% to 500% of the outstanding tax payable. The employer (Hong Kong company) will also incur corporate income tax liabilities in China because the presence of the employees over a period of 183 days in a year. The presence of employees has result in a permanent establishment in China. The old and new PRC corporate income tax law (new one being effective as from 2008) provides that the PE is liable for corporate income tax on PRC-source income. In the absence of information, the tax authorities will estimate the employer's CIT liabilities on a cost-plus basis or use other reasonable method to estimate the tax liabilities.

By China Tax & Investment Consultants Limited
www.china-tax.net