



Back to basics: Assignment letters

**A thought leadership
series from KPMG's
Global Mobility Services**

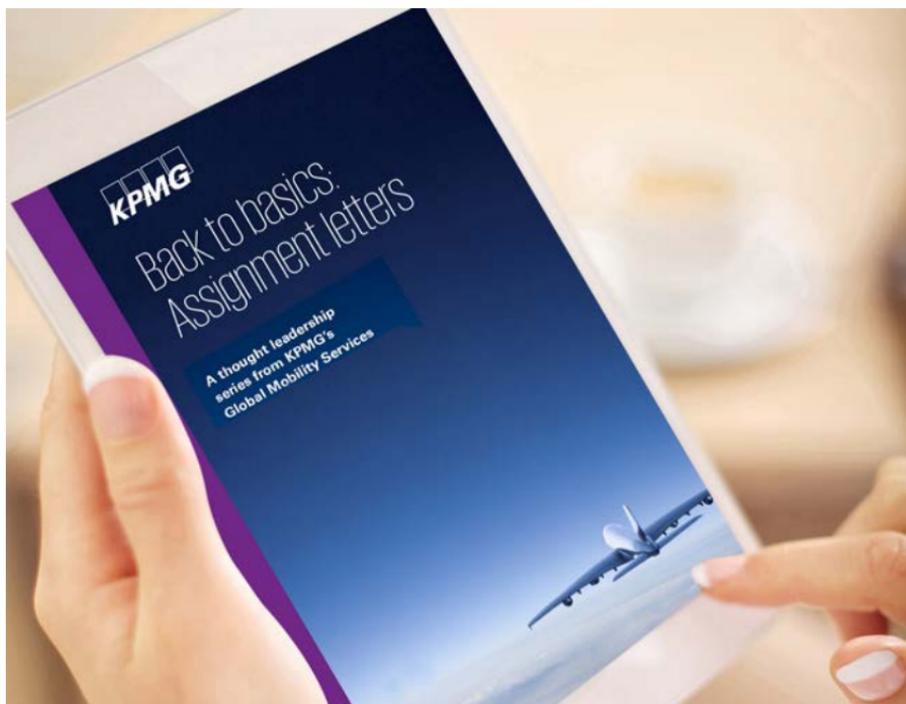
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Global mobility: Back to basics

KPMG LLP's (KPMG) Mobility Consulting Services team is publishing a series of articles on key global mobility program provisions prevalent within most of today's multinational organizations. Our "Back-to-Basics" series examines such components from a foundational level with a view to help HR professionals to better understand their intent and design, the options available and ways to achieve alignment to larger global mobility objectives. Whether you are new to global mobility or if some time has passed since you last thought through a provision or process, this series of articles is for you. Additionally, other teams that support global mobility in your organization (e.g., finance, payroll, tax, legal, or host country HR) may benefit from better understanding global mobility's approach when managing international assignments.



Introduction

Practically every organization has some form of an assignment letter to document the terms and conditions relating to the international assignment or transfer. Some are brief, others are long, and finding the right balance of components of assignment letters can be challenging and, if not done correctly, can lead to misunderstanding, inaccurate expectations, legal risks and increased costs. And, of course, any of those issues will reflect negatively on the global mobility program and perhaps on the entire organization.

KPMG does not provide legal advice. The content below is intended to help the reader understand the considerations for developing and implementing assignment letters. Because there is a clear labor and legal context to administering assignment letters, all readers are encouraged to work with their legal resources to help ensure the content of any letter is acceptable from a legal standpoint.



Anatomy of an assignment letter

The single most important point about assignment letters is that, above all, they are an interpretation of your global mobility policy at the assignee level. Further, they

may be the global mobility policy for an organization that may not have a formal policy document.

Components

- Role/Title	- Termination	- Timing
- Relocation	- Compensation	- Taxation
- Employment	- Allowances	- Extensions/Localizations
- Reporting Relationships	- Conduct	
- Training	- Benefits	

You may find it necessary to include other content as well, particularly if:

- You require a certain behavior from any of the signatories
- You have additional assignment-specific information that is not included in the global mobility policy
- You have granted a program or policy exception that should be documented.

Role/Job Title

While it may be obvious, we do come across sample letters that are silent on the job title to be held while on international assignment. Even if the job title does not change because of the assignment, it is likely worthwhile to document it. (“During your assignment, your job title will continue to be marketing manager.”) Some organizations go a bit further to include a short description of duties.

Reporting Relationships

We also observe many assignment letters that do not describe the reporting relationships that will change or continue during the international assignment. The importance of documenting this cannot be overstated. It has impacts to performance management processes and goal setting. In many instances, the reporting relationships will shift to the host country location, but the “new” host country manager is not aware of it. Almost as frequently though, the reporting relationship may continue with the home country manager. No matter the approach, it is important to document it. See Signatories further below.

Compensation

Base compensation, variable compensation, equity compensation, etc. need to be addressed within

the assignment letter. Usually base compensation (either home methodology is maintained or there is a transition to a host methodology) is documented within the letter. Less frequently is there documentation regarding variable compensation (bonus) or equity programs. With some assignments, particularly with sales forces, you may find a “blend” (home base, host bonus). No matter the approach, we recommend documenting whether or not hypothetical tax will be retained from these payments in cases of tax equalization. See Taxation.

If there is a change in variable compensation because of the assignment, then it is recommended to include content describing the new plan or new performance targets.

Benefits

Sometimes global mobility policies are vague in describing benefits programs for international assignments. Policies might indicate that an assignee could stay on your home plan, transition to the host plan or go on an international plan, all with a view to maintain a similar level of benefits coverage that has been provided at home.

Once it is time to write an Assignment Letter, it is also time to get specific. Again, based on an assignee’s facts and circumstances (timing, home/host combination, family size, etc.), you need to be prepared to document how benefits coverage will play out during the assignment. In instances where benefits are changing because of the assignment, it is all the more reason to get specific. You don’t need to get into details on levels of coverage within the letter, but you do need to indicate that there is a change and perhaps there is an enrollment process that needs to be managed before the assignment starts.

We also recommend citing where to go for questions (person, policy, web site, an attachment) so that signing the letter is not delayed.

Timing

The intended assignment length is important to document in the letter for a variety of reasons. It will govern which global mobility policy applies and can help demonstrate and support an assignment’s intent (specific to certain tax filing and tax residency positions). It also is a reference point for visa and work permit applications and repatriation planning.

Relocation

It’s important to describe the level of relocation-related assistance the assignee will receive. Particular details (again, based on their individual facts) regarding the size of shipments or the length of temporary living periods should be described. If you offer per diems during relocation periods, you should consider citing the per diem amount and how it will be paid. Many companies reference a relocation or global mobility policy for additional details and specifics. Even when there is a policy, it can be helpful to cite the class of service for air travel and how travel should be arranged.

Training

We recommend including any pertinent training that may be part of the international assignment. Such training can include language training, cultural training, safety, etc. It is important to include because you can describe any timing needs, cost or time limitations (as a component of your policy) or eligibility factors (employee only, employee and family, spouse only, etc.).

Allowances

Depending on the program, you may offer many or few assignment-related allowances (e.g. cost of living allowance/goods & services differential, housing assistance, home leave, dependent education). You should not wind up replicating the text in your mobility policy. Rather, in the assignment letter, cite specifics to the individual. For example, if you are offering a

COLA, consider citing how much COLA is anticipated to be paid (or attach a balance sheet). You can include the amount, how frequently paid, and how this amount may change over time based on salary level, family size, survey data, economic factors, etc. The point is to provide information that is relevant to the assignee. Compare below Options 1 and 2.

Option 1

Sample content

During your assignment, you will receive an annual goods & services payment amount of \$10,000.

KPMG comment

This is likely the most frequent kind of language that describes this payment. Yet, it still could leave the reader with a lots of questions.

Option 2

Sample content

If the cost of goods and services (G&S) is higher in the host country than those similar goods and services in the home country, the company will provide a supplemental goods and services allowance. The amount, called a differential, is equal to the difference in goods and services costs between the home and host countries.

To determine the cost of living allowance for you, the company purchases economic data from an external data services provider which monitors costs between home and host countries. Other factors, such as family size and salary level, also determine this figure.

Please note that this number will change during your assignment based on varying economic conditions, varying inflation rates and currency fluctuations. It is important to note that while your G&S allowance may fluctuate, your purchasing power is maintained. G&S payments begin when you occupy your home or apartment in the host location.

At the time of this writing, your goods and services allowance is estimated to be \$416. This amount will be paid to you each pay period. The company is responsible for any taxes relating to this payment.

KPMG comment

These sentences explain what it is, why you provide it, and under which circumstances.

These sentences explain how the amount is determined and by whom.

These sentences explain that the G&S may change during the assignment. One of the most frequently asked questions we receive from assignees is "Why did my G&S or COLA change?" Also note that the language indicates when G&S payments start.

Including the amount that they can expect to receive in each paycheck helps the assignee manage funds better. Note as well that we have indicated who is responsible for any tax (home, host or both) implications resulting from the payment, which aligns to the organization's tax equalization policy.

Taxation

Understandably, taxation is always a big concern for the assignee, and it is a big concern for the organization. Generally, it is recommended that you cite how taxes are being managed during the assignment. For example, it may be appropriate to state that during the assignment, the assignee will participate in Tax Equalization (TEQ), which is governed by a separate, distinct policy.

If you do not have a TEQ policy or do not intend to equalize taxes, then you would be encouraged to clearly describe how taxes

will be handled provision by provision. You could end each section by describing who is responsible for certain payments or income (see G&S sample above).

In these cases, organizations tend to rely on "grossing-up" payments to account for taxes (company responsible) or withholding applicable taxes from the assignee. Here is a look at the case of a relocation allowance of \$5,000.

Company Responsible for Taxes

You will be provided a net relocation allowance of \$5,000, which will be paid to you at your time of departure. The company is responsible for any taxes resulting from this payment. This allowance is designed to assist you with incidental expenses relating to occupying your residence in the host country.

(In this case, the company may spend \$5,000 on the allowance and an additional \$3,750 on taxes.)

Assignee Responsible for Taxes

You will be provided a gross relocation allowance of \$5,000, which will be paid to you at your time of departure. You are responsible for any taxes resulting from this payment. This allowance is designed to assist you with incidental expenses relating to occupying your residence in the host country.

(In this case, the company may spend \$5,000 on the allowance, but, after taxes, the assignee may then have \$3,750 to apply toward incidental expenses.)

Beyond documenting tax responsibilities on allowances, there are other tax messages to include in the assignment letter. If you are operating a program including hypothetical tax retention, you should cite which income elements are subject to hypothetical withholding, such as salary, bonus and/or equity compensation. Additionally, based on the assignee's individual situation, you can document how much hypothetical withholding he/she can expect from each pay period. You can also indicate which state or province, if any, is included in the hypothetical withholding amount.

Lastly, there is a final tax message regarding compliance that you may wish to include in the letter. Many clients like to include that the assignee will receive home and host country tax preparation services from a tax services provider, and the assignee's cooperation is mandatory. If your program has a policy document detailing how taxation is managed (e.g., Tax Equalization Policy), refer the reader to the policy for further details.



Employment

Great care needs to be applied when documenting the employment relationship between the company and the assignee during the assignment. Circumstances vary, but in most instances, due to the temporary (less than five years) nature of an international assignment, most organizations will strive to maintain the current employment relationship between the home country organization and the assignee. In these cases, it may help promote a variety of company objectives:

- Maintaining home country employment may allow for continued participation in home-country- specific programs such as benefits, retirement/pension, equity and variable compensation plans
- It may align to any secondment agreements between home and host country entities. (see sidebar, page 11)

Generally, the assignment letter is about documenting an assignment's terms and conditions. Companies have their own home country employment agreements for all employees (assignees and non-assignees). Seek legal input, but many organizations do not include a great deal of text regarding employment in assignment letters. Many simply choose to message that the employment continues to be governed by the employment agreement that is presently in place. If the employment terms and conditions are changing because of the international assignment, it would be expected that such changes would be documented outside of assignment letter processes. Essentially, assignments are documented in the assignment letter and employment agreements are documented elsewhere.

Termination

Related to Employment above, most organizations will rely on home country termination (voluntary/involuntary) policies to govern termination during the assignment.

For assignment letter purposes, it may be appropriate to include this point in the content of the assignment letter. However, as it relates to the assignment itself, terminations during the assignment can have implications on assignment-related benefits and allowances.

For example, if an assignee voluntarily terminates or is terminated for cause, the company may or may not allow for return relocation assistance. It will affect assignee and family member immigration eligibility. It may affect host country housing assistance. The point is to make sure you document the implications and ramifications of terminating during the assignment so that your approach is applied consistently and limits requests for exceptions.

Conduct

Because an assignment letter is signed, we have noticed that more and more clients are asking that host-country-conduct content be included in the letter. Generally, the assignee confirms that he/she will continue to be held to the terms and conditions of *both* home and host country business conduct policies.

If your organization does not have a conduct policy, then it could be appropriate to indicate that the assignee will observe local laws and customs and comply with all tax and immigration requirements. Lately, some clients have asked about including language that references the Foreign Corrupt Practices Act (FCPA).

Extensions/Localizations

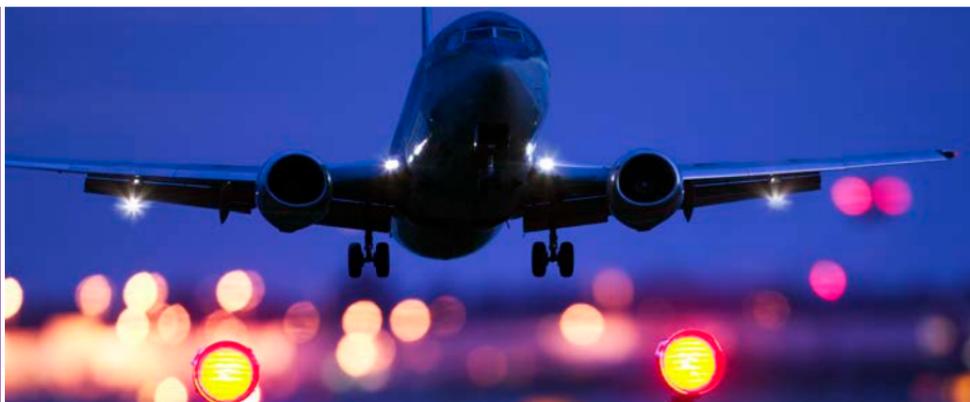
In many cases, assignment lengths can change after an assignment has started. A two-year assignment can turn into three years. A four-year assignment can turn into two years. An eight month assignment can turn into an 18-month assignment. No matter the change, for assignment letters, the company should indicate while the assignment is intended to last

a certain period, it may change based on business needs or for other reasons. The language should indicate that the assignee will receive notice about the change and will be expected to repatriate or remain in the host location (if all parties agree). If the assignment intent changes, then a new letter should be developed and executed. At a minimum, a memorandum documenting the change should be created.

Similarly, if, once an assignment begins, it may be necessary to have the assignee in the host location indefinitely, if all parties agree. The letter should indicate that an assignee should transition to local hire status and no longer receive assignment-related benefits. This process is called localization and should be governed by a separate policy. For assignment letters, indicating that localization may be possible if both parties agree should suffice.

Other content

Because the document is signed by all stakeholders, organizations have the opportunity to include a variety of other assignment-related matters. Such matters could include language about data privacy or whether or not there is a job guarantee in the home country after the assignment (NB: many organizations do not guarantee a job after the assignment but will commit to making reasonable efforts to help find opportunities in the home country). Do you wish to include a payback provision? Some organizations will include contacts details of individuals who will support the assignment. For example, “John Smith will be contacting you to help arrange your relocation. John can be reached at jsmith@company.com.” Other organizations provide a list of contacts as an addendum.



Administration and application

In most instances, the HR team of the sending organization (home country) is responsible for developing the assignment letter and ensuring the signatories have signed the document. Copies of the signed document may then be distributed to signatories and other stakeholders (e.g., relocation provider, tax provider, immigration provider, host country HR). We've observed an increase in e-signing documents. Make sure about the validity of e-signing within *both* the home and host countries.

Many organizations have a centralized approach for managing Assignment Letter administration. This allows a degree of control of the content of an assignment structure and can also help manage compliance.

Signatories and CCs

Have you ever looked for a copy of an assignment letter and only found a copy that was unsigned or marked "draft?" An unsigned assignment letter only documents something that was (at one point in time) proposed. You have no idea if there is another version elsewhere or if any document was ever signed at all. Not getting a letter signed eliminates the protections it provides to the assignee and the employer. In most instances, we recommend the assignee, the host country hiring manager, and the home country HR professional sign the document. Companies have their preferences, but generally, the assignee should sign and date the document last.

Wait a second (ment)!

Many clients mistakenly refer to assignment letters and secondment agreements interchangeably. However, there are distinctions between these documents. Generally, secondment agreements are agreements between entities. In a global mobility context, they can document the agreement between the home country organization (entity) and the host country organization (entity) regarding matters such as cross-charging of costs and how, generally, employees from one entity to another are managed.

Seek legal assistance, but having secondment agreements in place before an assignment begins can help promote the employment and taxation stances that will govern international assignments.

All signatories should maintain a copy. Who else should be copied on the document? Copies are often distributed to suppliers (immigration, tax, relocation, etc.) so that services can begin and be provided based on what is contained in the letter. Some organizations may choose to include other international stakeholders such as host country HR, payroll or benefits. No matter who is copied, the letter should indicate who else is seeing a copy of the letter. "cc: TBD" is not an option.

Templates

Having a template can be useful to help ensure your organization is developing assignment letters with consistency and with the right language approved by the legal department. But care needs to be taken with templates. Avoid including something that the organization does not intend to offer. To help prevent this,

many organizations use multiple templates, depending on the facts and the policies for certain assignments. For example:

- A template for long-term and a template for short-term
- A template for single assignee and a template for married/families assignees
- A template for all assignees out of/into a country
- A template for new hires and a template for current employees.

Whether you need one or multiple templates, be sure to organize it provision by provision in rows within a table. You can easily remove non-pertinent provisions by deleting a row, and the format of your template remains intact. Consider assigning version numbers or effective dates for templates to help ensure the latest version is being applied.

Conclusion

From a service provider perspective, we rely on assignment letter content for more than you might think. If we have any of the following questions, we would likely start with the assignment letter:

- When did the assignment start? How long is it intended to last?
- What is the assignee's hypo state?
- How many home leave trips does the assignee get each year? What class of service is offered for travel?
- Who is tax responsible for this payment?
- Who does this person report to?
- Does this person pay a housing norm? Is the host housing benefit an allowance or is it paid to the landlord?

The questions above should illustrate the reliance your supplier network may have on the content of the letter. Remember the 6Cs of assignment letters:

Communication – a well-drafted assignment letter should effectively communicate and document the terms and conditions of the assignment

Compensation – include all compensatory elements (salary, variable compensation, allowances) so that they are documented and understood by the assignee

Context – the letter should suit the facts and circumstances of the assignee

Clarity – be clear about all caps, limitations and eligibility for certain provisions, including who is responsible for tax implications

Concise – find the balance of being informative while not letting the document become too lengthy

And finally – congratulate! Find a positive, upbeat tone to the letter. An international assignment is a terrific milestone in anyone's career and if you are sending your best people internationally, message that they are among a small group of employees who are sent to work in other countries.

Homework

Find a few recent assignment letters that were implemented and look for the following:

- Does the order of the content follow the assignment life cycle (predeparture, at-post, repatriation)?
- Do you still have remaining questions like "How is this paid?" "When is this paid?" "Who is tax responsible?" "Why is this paid?" etc.
- Do the letters have the right signatories?
- Is there anything "missing" from the letter?



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Previous editions on Home Leave and Repatriation from the Back to Basics series can be found on KPMG's TaxWatch Institutes Web page.

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