

TDS ON DIVIDEND

With effect from April 1, 2020, dividend income has become taxable in the hands of shareholders. Pursuant to the requirement of Income Tax Act, 1961 (“the IT Act”), the Company will be required to withhold taxes at the prescribed rates on the dividend paid to its shareholders. In this connection, the shareholders are requested to take note of the following:

A. Resident Shareholders:

- (i) TDS shall be deducted at the rate of 10% under Section 194 of the IT Act on the amount of dividend declared and paid by the Company in the Financial Year (FY) 2021-22 to resident shareholders provided, valid PAN of the shareholder is available.
- (ii) However, TDS shall be deducted at higher rates as stated below in the following circumstances:
 - **Valid PAN not available:** If the PAN is not valid or valid PAN is not available with the Company’s Register of Members, TDS shall be deducted at the rate of 20% as per Section 206AA of the IT Act.
 - **PAN not linked to Aadhaar:**
 - In case of an individual shareholder whose PAN though required but is found to be not linked with his or her Aadhaar number by September 30, 2021 (last date prescribed as on date to link the same), TDS would be deducted at 20% as per Section 206AA of the Act by considering that the PAN has become in-operative unless such PAN-Aadhaar linking due date is further extended at the time TDS is required to be deducted.
 - The list of shareholders in whose case the PAN is not linked with their Aadhaar, shall be obtained from the functionality of the reporting portal made available by the Income Tax department.
 - In case the individual shareholder who does not possess the Aadhaar number or the Enrolment ID is (i) not a citizen of India, or is (ii) aged eighty years or more at any time during the FY 2021-22 or is (iii) residing

in the states/UT of Assam, Jammu & Kashmir and Meghalaya, then such shareholder may furnish a declaration to the said effect so that the TDS may be deducted at normal rates keeping in view the exemption provided by CBDT vide Notification No. 37/2017 dated 11.05.2017 for such person to link the same.

- **Specified person under section 206AB:**

- TDS shall be deducted at the rate of 20 percent, in case of resident shareholders falling within the meaning of a 'specified person' as per Section 206AB(3) of the IT Act i.e. a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under sub-section (1) of Section 139 of the IT Act has expired; and the aggregate of tax deducted at source and tax collected at source in his case is Rs. 50,000 or more in each of these two previous years.
- The list of 'specified person' for the purpose of section 206AB shall be obtained at the time of deduction of TDS, from the reporting portal utility made available by the Income Tax department as per the CBDT Circular No. 11/2021 dated 21.06.2021.

(iii) In case of the following category of resident shareholders, no TDS shall be deducted or the TDS shall be deducted at lower rate, as the case may be, subject to submission of the documents specified below:

- **Form 15G/15H:** In case where the shareholder provides valid Form 15G (for individuals, with no tax liability on total income and income not exceeding maximum amount which is not chargeable to tax) or Form 15H (for individual above the age of 60 years with no tax liability on total income), no TDS shall be deducted.
- **Certificate for lower/Nil deduction:** In case the shareholder provides valid Certificate for lower/Nil deduction under Section 197 of the IT Act, tax

shall be deducted as per the rate specified in the Certificate.

- **Insurance Companies:** No TDS shall be deducted if the insurance company submits a self-Declaration certifying the details of securities held by it against which dividend is declared and certifying the fact that it is registered with IRDA and is eligible to claim the exemption under the second proviso to Section 194 of the IT Act. The said certificate shall also be accompanied with self-attested copy of PAN and IRDA registration certificate.
- **Mutual Funds:** No TDS shall be deducted if the Mutual fund submits a self-declaration certifying the details of securities held by it against which dividend is declared and certifying the fact that it is registered with SEBI and is eligible to claim the exemption under Section 10(23D) of the IT Act. The said certificate shall also be accompanied with a self-attested copy of its PAN and SEBI registration certificate.
- **Other shareholders covered under Section 196:** No TDS shall be deducted if documentary evidences for coverage under Section 196 of IT Act are submitted in respect of other shareholders covered under Section 196 of IT Act such as Government, RBI or corporations established by Central Act which is under any law for the time being in force, exempt from income tax on its income.
- **Alternate Investment Fund (AIF) Category I and II:** No TDS shall be deducted if self-declaration that the shareholder is eligible for exemption under Section 10(23FBA) of the IT Act, for exemption from TDS under section 197A (1F) and that they are established as Category I or Category II AIF under the SEBI regulations is submitted. Copy of self-attested registration documents and PAN card should also be provided.

- **Recognized Provident funds/ Approved Superannuation fund/ Approved Gratuity Fund:** No TDS shall be deducted if necessary documentary evidence as per Circular No. 18/2017 issued by Central Board of Direct Taxes (CBDT) have been submitted.
- **National Pension Trust:** No TDS shall be deducted if self-declaration along with self-attested copy of documentary evidence supporting the exemption from TDS under Section 197A (1E) of IT Act and self-attested copy of PAN card is submitted.
- **Any other entity entitled to exemption from TDS:** In case any resident shareholder (other than those specified above) is exempted from TDS deduction as per the provisions of IT Act or by any other law or notification, a valid self-attested documentary evidence (e.g. relevant copy of registration, notification, order etc.) in support of the entity being entitled to exemption from TDS needs to be submitted.

(iv) No tax shall however be deducted on the dividends paid to resident individuals if aggregate dividend distributed or likely to be distributed during the financial year does not exceed Rs. 5,000/-.

B. Non- resident shareholders [including Foreign Institutional Investors (FIIs) and Foreign Portfolio Investors (FPIs)]:

- (i) Tax is normally required to be withheld at the rate of 20% (plus applicable surcharge and cess) under Section 195 or 196D, as the case may be of the IT Act subject to beneficial provisions of the relevant Double Tax Avoidance Agreement (“DTAA/Treaty”).
- (ii) As per Section 90 of the Act, a non-resident shareholder (including FIIs/FPIs) has the option to be governed by the provisions of the DTAA between India and the country of tax residence of the shareholder, if they are more beneficial to the shareholder. For this purpose i.e., to avail the tax treaty benefits, the

non-resident shareholder will have to provide all of the following documents:

- Self-attested copy of PAN allotted by the Indian Income Tax Authorities. In case PAN is not available, details as prescribed under rule 37BC of the Income-tax Rules, 1962 to be furnished
- Self-attested copy of valid Tax Residency Certificate obtained from the Tax Authorities of the country of which the shareholder is a resident (valid for financial year 2021-22);
- Self-declaration in Form 10F
- Self-declaration duly signed and stamped on letterhead as per **Annexure A** annexed with the Notice of AGM.
- Self-attested copy of any other document as prescribed under the IT Act for lower withholding of taxes, if applicable.

(iii) Further, in case the non-resident shareholder is eligible to claim deduction of TDS at a lower/NIL rate, TDS shall be deducted at such lower/NIL rate, subject to submission of the documents specified below:

- Lower deduction certificate under Section 197 or 195(3) as the case may be, obtained from the Income Tax Authority. In case of an Indian branch of a foreign bank, the lower deduction certificate is also to be supported with a self-declaration confirming that the income is received by the Indian branch on its own account and not on behalf of the Foreign Bank and the same will be included in taxable income of the branch in India.
- In case any non-resident shareholder is exempted from TDS as per the provisions of IT Act or any other law such as The United Nations (Privileges and Immunities) Act, 1947, etc., necessary documentary evidences substantiating exemption shall be submitted.

(iv) It may be noted that tax is required be deducted at the rate of 40% (plus applicable surcharge and cess), in case of such non-resident shareholders who have a Permanent Establishment (PE) in India and who qualify as a 'specified person' as per Section 206AB(3) of the IT Act i.e. a person who has

not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under sub-section (1) of Section 139 has expired; and the aggregate of tax deducted at source and tax collected at source in his case is Rs. 50,000 or more in each of these two previous years.

The list of 'specified person' for the purpose of Section 206AB shall be obtained, at the time of deduction of TDS, from the reporting portal utility made available by the Income Tax department as per the CBDT Circular No. 11/2021 dated 21.06.2021.

In case the name of any non-resident shareholder forms part of the aforesaid list of 'specified person' as per the Reporting utility, tax shall be deducted at the rate of 40% (plus applicable surcharge and cess) unless the non-resident shareholder does not have a PE in India. If the non-resident shareholder does not have a PE in India, the non-resident shareholder is required to furnish a declaration duly signed and stamped to such effect to ensure that taxes are not held at such higher rate of 40% (plus surcharge and cess).

The shareholders are requested to complete and / or update their Residential Status, PAN, Category as per the IT Act with the Company's Registrar and Transfer Agent – Alankit Assignments Limited (in case of shares held in physical mode) and depositories (in case of shares held in demat mode) so that the deduction of TDS is carried out appropriately.

Further, the aforementioned documents are required to be uploaded by shareholders on the Alankit Assignments Limited (Registrar & Transfer Agent of the Company) portal <https://einward.alankit.com/> or should be submitted by e-mail at alankit_md1@alankit.com for claiming TDS exemption/lower deduction by 11:59 p.m. IST on or before 21-09-2021 No communication would be accepted from shareholders after the said date regarding nil/lower tax matters.

Application of beneficial TDS rates (including the beneficial DTAA rates) or exemption from TDS for shareholders shall depend upon the completeness and satisfactory review by the Company, of the documents submitted by the shareholders. In case tax on dividend is deducted at a higher rate in the absence of receipt of the aforementioned details / documents or upon documents being found to be non-satisfactory upon review by the Company, shareholder would still have the option of claiming refund of the excess tax paid at the time of filing your income tax return. No claim shall lie against the Company for such taxes deducted.

In the event of any income tax demand (including interest, penalty, etc.) arising from any misrepresentation, inaccuracy or omission of information provided / to be provided by the Member(s), such Member(s) will be responsible to indemnify the Company and also, provide the Company with all information / documents and co-operation in any appellate proceedings.

Above communication on TDS sets out the provisions of law in a summary manner only, as on the date of the communication, and does not purport to be a complete analysis or listing of all potential tax consequences. Shareholders may note that, since the tax consequences are dependent on facts and stances of each case, they are advised to consult their own tax consultant with respect to specific tax implications arising out of receipt of dividend.

Annexure-A

<To be printed on letterhead>

DECLARATION FOR CLAIMING BENEFITS UNDER DTAA

Date:

To,
NHPC Limited
NHPC Office Complex,
Sector 33, Faridabad Haryana 121003,
Email:investorcell@nhpc.nic.in

Subject: Declaration for eligibility to claim benefit under Double Taxation Avoidance Agreement between Government of India and Government of <country of tax residency> (“DTAA/Treaty”), as modified by Multilateral Instrument (“MLI”), if applicable

With reference to above, I/We wish to declare as below:

1. I / We, <Full name of the shareholder>, having permanent account number (PAN) <mention PAN> under the Indian Income tax Act, 1961 (“the IT Act”), and holding<mention number of shares held> number of shares of NHPC Limited (“the Company”) under demat account number/ folio number as on the record date, am / are a tax resident of <country name> in terms of Article <mention relevant Article number of the DTAA> of the DTAA as modified by MLI (if applicable) and do not qualify as a ‘resident’ of India under Section 6 of the IT Act. A copy of the valid tax residency certificate for..... <period>, along with Form 10F which is valid as on the record date (XXXX), is attached herewith.
2. I/We am/are and will continue to remain a tax resident of.....<country name> during the relevant Financial Year.
3. I/We am/are the legal and beneficial owner of the dividend income to be received from the Company.
4. I/We am/are eligible to be governed by the provisions of the DTAA as modified by MLI (if applicable), in respect of the dividend income and meet all the necessary conditions to claim Treaty rate.
5. I/We do not have a Permanent Establishment (“PE”) in India in terms of Article.....<mention relevant Article number of the DTAA> of the DTAA as modified by MLI (if applicable) or a fixed base in India and the amounts paid/payable to us, in any case, are not attributable to the PE or fixed base, if any, which may have got constituted otherwise.
6. I/We do not have a PE in a third country and the amounts paid/payable to me/us, in any case, is/are not attributable to a PE in third jurisdiction, if any, which may have got constituted otherwise.
7. I/We do not have a Business Connection in India according to the provision of Section 9(1)(i) of the Act and the amounts paid/ payable to me/us, in any case, are not attributable to business operations, if any, carried out in India.

8. I/We confirm that the main purpose or the principal purpose of arranging my affairs/affairs of<Full name of the shareholder> was not to obtain tax benefits available under the applicable Treaty.
9. Further, our claim for relief under the Treaty is not restricted by application of Limitation of Benefit clause, if any, thereunder.

I/We hereby certify that the declarations made above are true and bonafide. I/we hereby certify that in the event of any income tax demand (including interest, penalty, etc.) arising from any misrepresentation, inaccuracy or omission of information provided by me/us, I/we will be responsible to pay and indemnify such income tax demand (including interest, penalty, etc.) and provide the Company with all information / documents that may be necessary and co-operate in any proceedings before any income tax / appellate authority.

For <Mention the name of the payee>

Authorised Signatory

<Name of the person signing>

<Designation of the person signing>