

FAQs on Tax to be deducted at Source (TDS) on Dividend for FY 2020-21

Background

Finance Act 2020 has introduced the new tax regime for taxing the dividend income in the hands of shareholders. Prior to April 01, 2020, dividend distribution was subject to Dividend distribution tax (DDT) in the hands of the company and such dividend income was exempted in the hands of shareholders.

However w.e.f. April 01, 2020, DDT has been abolished and Dividend income is now taxable in the hands of the shareholders, which needs to be deducted by the company at the time of payment of dividend. Taxability of the dividend shall depend upon class of the shareholder(s), quantum of dividend and country of their residence.

The objective of this FAQ is to bring clarity on the possible concerns of the shareholders.

Note: This FAQ shall not be construed as a legal advice and the shareholders should consult their advisors for any further clarity.

I RESIDENT SHAREHOLDERS

01. I am a resident shareholder. Will my dividend be subject to TDS?

Effective April 01, 2020, Dividend is taxable in the hands of shareholders and therefore TDS will also be deducted as per the provisions in the Income-tax Act, 1961.

02. I am a resident shareholder (i.e. Individual, HUF, BOI, AOP, Partnership Firms, Corporations). At what rate TDS will be deducted?

TDS will be deducted @ 10% of dividend paid during the FY 2021-22.

However, where the dividend payout does not exceed Rs. 5,000 **in case of resident individuals**, no TDS shall be deducted.

For all other categories of shareholders (including individuals deriving dividend in excess of Rs. 5,000), availability of Permanent Account Number (PAN) with the depository/ Transfer Agent is mandatory, else tax rate of 20% would be applied. Accordingly, shareholders are advised to immediately update their Permanent Account Number (PAN) with the depository/ Transfer Agent. Higher tax rate of 20% would also apply in case you are determined as a '*Specified Person*' by the Income-tax portal on the basis of your tax return filing status and TDS deducted in the past. For more details, refer to Q. No. 12 below.

03. Is the above rate of 10% or 20%, as the case be, increased by surcharge and cess?

For resident shareholders, the rate of TDS would not be increased by surcharge and cess. For non-resident shareholders, the rate of TDS would be increased by applicable surcharge and cess where relevant Tax Treaty benefit is not available.

04. Whether there is any threshold while deducting TDS payment on dividend distribution?

Yes, if the dividend distributed to a **resident individual** shareholder does not exceed Rs 5,000 in a financial year, then no tax will be deducted. However, no such threshold is applicable for payment to shareholders other than an individual.

05. I am a resident individual or a person (other than company or Firm) and my dividend receipt is subject to TDS. However, tax on my estimated total income for the FY 2021-22 after including this dividend income on which tax is to be deducted, will be NIL. Can I then request the Company not to deduct tax at source and to pay the amount without deduction of tax at source?

Yes, in case you are **resident Individual/ HUF shareholder** and your total income is not exceeding the income chargeable to tax in India as per Income Tax Act, 1961, then you can submit Form 15G/15H immediately to the Company along with copy of self-attested PAN card. Please note Form 15G/H, if applicable, is to be filed every Financial Year preferably in the month of April (beginning of the FY). Please ensure that your correct PAN card details are already updated in your demat account /physical folio as the case may be before applying so.

- Form 15G (applicable to an individuals aged less than 60 years and applicable for HUF) available at <https://www.incometaxindia.gov.in/pages/downloads/most-used-forms.aspx>
- Form 15H (applicable to an Individual aged 60 years or more) available at <https://www.incometaxindia.gov.in/pages/downloads/most-used-forms.aspx>

06. Where does the shareholder need to update the PAN?

Demat Shareholding:

If the shares are held in Demat form, the PAN needs to be updated with the Depository.

Physical Shareholding:

If the shares are held in physical form, the PAN needs to be updated with the Company's Registrar and Transfer Agents - M/s Alankit Assignments Limited, Alankit House, 4E/2, Jhandewalan Extension, New Delhi -110 055

If the PAN is already updated, no further action is required

Please refer Q. No. 15 for sending documents.

07. Are there any Indian entities exempted from deduction of TDS on Dividend?

Yes, there are following entities which are exempt from TDS on dividend

- **Insurance entities (LIC, GIC, etc.):** TDS is not applicable on payment of dividend to these insurance entities which are given exemption under proviso to section 194 of Income Tax Act, 1961. Such Insurance entities should provide a self-declaration that they are engaged in insurance business with a self-attested copy of PAN card and registration certificate with Insurance Regulatory and Development Authority (IRDA).
- **Mutual Funds:** In terms of section 196, TDS is not applicable on payment of dividend to Mutual Funds covered under section 10(23D) of Income Tax Act, 1961. Such Mutual

Funds should provide a self-declaration that they are covered under Section 10 (23D) of the Income Tax Act, 1961, with a self-attested copy of PAN card and registration certificate.

- **Indian Government entities:** In terms of section 196, TDS is not applicable on payment of dividend to Government entities (Central or State). Such Government entities should provide a documentary evidence for the same. It may be noted that Public Sector Undertakings (PSUs) do not characterize as Government and TDS would apply in the same manner as applicable to any other company.
- **Corporation established by or under a Central Act which is exempt from income-tax on its income:** In terms of section 196, TDS is not applicable on payment of dividend to a corporation established by or under a Central Act which is exempt from income-tax on its income. Such corporations should provide a documentary evidence for the aforesaid.
- **Alternate investment fund (category – I & II):** TDS is not applicable on payment of dividend to Alternate investment fund (category – I & II), covered by Notification No. 51/2015 dated June 25, 2015, where dividend is exempt under section 10(23FBA) and this entity is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012. Such entities should provide a self-attested copy certificate of registration as a Category I or a Category II Alternative Investment Fund with PAN.
- **Persons who have obtained a certificate under section 197 of the Income-tax Act:** TDS would be done as per the lower or nil rate that may be mentioned in the certificate under section 197 of the Act. The certificate furnished to the Company should specifically mention the nature of income as dividend, amount expected and the payer as NIIT Limited.
- **Other persons who may be exempt under any other provisions under the IT Act:** The Company, in absence of any express dispensation in the statute, would generally do a TDS on dividend payments to such persons so as to comply the provisions of the IT Act and get into any litigation. However, in a case where a shareholder furnishes - a) relevant documentation to suggest that it is exempt from tax; and b) a specific notification/ circular issued by the CBDT stating that TDS should not be done on payments to such a shareholder, the Company, basis the advise from its tax team, would decide whether tax deduction is required.

II In case of Non-Residents in India:-

08. What is the WHT rate applicable for shareholders being Foreign Institutional Investors (FIIs)/Foreign Portfolio Investors (FPIs), not being corporates?

In view of specific provision under section 196D of the Income tax Act 1961, WHT shall be deducted @ 20*% (plus applicable surcharge and cess) on dividend paid to Foreign Institutional Investors (“FIIs”) /Foreign Portfolio Investors (“FPIs”). Rates of WHT/TDS including surcharge and cess are tabulated given below:

* In case, the FIIs/FPIs desire to avail an tax treaty benefits and furnish the relevant documentation for doing so, the beneficial tax rate as per the relevant tax treaty would apply. Please refer to Q. No. 9 below.

Higher rate of TDS on dividend would apply if the shareholder is reflected as a 'Specified Person' by the Income -tax portal. Please refer to Q. No. 11 below.

FII/ FPI making investment under FPI route) in form of trusts/AOP (assuming treaty benefit not availed)

S.No.	Range of Dividend Income	WHT/TDS Rate	Surcharge	Education Cess	Rate of including WHT/TDS surcharge and cess
1	Upto ₹ 50 Lacs	20%	NIL	4%	20.80%
2	Above ₹ 50 Lacs but not exceeding ₹ 1 Crore	20%	10%	4%	22.88%
3	Above ₹ 1 Crore	20%	15%	4%	23.92%

FII/ FPI (making investment under FPI route) in form of Company (assuming treaty benefit not availed)

S.No.	Range of Dividend Income	WHT/TDS Rate	Surcharge	Education Cess	Rate of including WHT/TDS surcharge and cess
1	Above ₹ 1 Crore but not exceeding ₹ 10 Crore	20%	2%	4%	21.216%
2	Above ₹ 10 Crores	20%	5%	4%	21.84%

FII/ FPI (making investment under FPI route) in form of Firm (assuming treaty benefit not availed)

S.No.	Range of Dividend Income	WHT/TDS Rate	Surcharge	Education Cess	Rate of including WHT/TDS surcharge and cess
1	Above ₹ 1 Crore	20%	12%	4%	23.296%

09. What is WHT/ TDS rate applicable to non-resident shareholders other than FIIs/ FPIs?

- For non-resident shareholders, the rate of withholding tax is 20% (plus applicable surcharge and cess).
- However, where a non-resident shareholder is eligible to claim the tax treaty benefit, and the tax rate provided in the respective tax treaty is beneficial to the shareholder, then the rate as per the tax treaty would be applied.

- Rates of TDS (for non-resident individuals, HUF, AOP, BOI) including surcharge and cess (assuming tax treaty benefit is not availed) are tabulated given below:

S.No.	Range of Dividend Income	TDS Rate	Surcharge	Education Cess	Rate of TDS including surcharge and cess
1	Upto ₹ 50 Lacs	20%	NIL	4%	20.80%
2	Above ₹ 50 Lacs but not exceeding ₹ 1 Crore	20%	10%	4%	22.88%
3	Above ₹ 1 Crore	20%	15%	4%	23.92%

- Rates of TDS for non-resident companies including surcharge and cess are tabulated given below:

S.No.	Range of Dividend Income	TDS Rate	Surcharge	Education Cess	Rate of TDS including surcharge and cess
1	Upto ₹ 1 Crore	20%	NIL	4%	20.80%
2	Above ₹ 1 Crore but not exceeding ₹ 10 Crores	20%	2%	4%	21.22%
3	Above ₹ 10 Crores	20%	5%	4%	21.84%

- **Non-residents who have obtained a certificate under section 197 of the Income-tax Act:** TDS would be done as per the lower or nil rate that may be mentioned in the certificate under section 197 of the Act. The certificate furnished to the Company should specifically mention the nature of income as dividend, amount expected and the payer as NIIT Limited.

10. What are the documents required to be furnished by a non-resident shareholder, whether or not a FII/FPI, to avail tax treaty benefit?

- In order to avail tax treaty benefits, non-resident shareholders would be required to submit the following documents:
 - a. Tax Residency Certificate (TRC) for FY 2021-22. TRC can be obtained from the Revenue / Tax authorities of the country of which the shareholder is resident.
 - b. Form 10F as per the format specified under Income Tax Act, 1961 available at <https://www.incometaxindia.gov.in/forms/income-tax%20rules/103120000000007197.pdf>
 - c. Copy of PAN Card, if available; *In absence of PAN, the following information/ document is mandatory: in respect of the non-resident shareholder: i) Name, e-mail id, contact number; ii) Address in the country of residence; iii) Tax Residency Certificate (TRC), if the law of*

country of residence provides for such certificate; and iv) Tax Identification Number (TIN) in the country of residence. Where TIN is not available, a unique identification number is required to be furnished through which the deductee is identified in the country of residence.

- d. Self-declaration *inter-alia* of beneficial ownership, not having a PE in India, etc.
- Please note that the Company is not obligated to apply the beneficial treaty rates at the time of tax deduction of TDS on dividend. Application of beneficial treaty rate shall depend upon the completeness and satisfactory review by the Company, of the documents submitted by the non-resident shareholder.
 - If the documents are not provided or are not complete in order to provide the beneficial treaty rates, then tax will be deducted at 20% plus applicable surcharge and cess.
 - Higher rate of TDS on dividend if the shareholder is considered as '*Specified Person*'. Refer Q. No. 11.

For Residents and Non-Residents Both

11. Deduction of TDS by lower/NIL rate:

If you have obtained lower/NIL deduction certificate under section 197 from income tax department kindly share copy of the same with us latest by Monday, July 26, 2021 to apply lower/NIL TDS rate as mentioned in such certificate.

Tuesday, July 20, 2021 has been fixed as Record Date for determining entitlement of members to the dividend for the financial year ended March 31, 2021, if approved at the AGM.

12. When a shareholder will be considered as *Specified Person*?

A specified person refers to a person who satisfies the following 2 conditions: -

- He has not filed the income tax returns for two previous financial years immediately before the previous year in which tax is required to be deducted or collected, for which the due date filing income-tax return has elapsed. For example, for the current financial year 2021-22, previous years would be 2018-19 and 2019-20; and
- The aggregate of tax deducted at source (TDS) and tax collected at source (TCS) is 50,000 INR or more in each of these two previous years.

Note: The specified person shall not include a non-resident who does not have a permanent establishment in India – A *No Permanent Establishment in India* declaration should be submitted by the Non-resident.

13. What is the higher rate of tax that needs to be deducted or collected if a shareholder is considered as *Specified Person*?

The higher rate is twice the prescribed rate or 5%, whichever is higher.

14. How the *Specified Person* will be identified by the Company?

The Government of India has launched a facility through which the Company can obtain the list of Specified Persons from the Income-tax portal. If the shareholder's name is mentioned in the list, then the Company will deduct tax at the higher rate. In such a case, the Company will have no option to consider any other declaration or documents from the shareholder including that from a non-resident shareholder who does not have a permanent establishment in India.

15. What is the timeline to submit all of above-mentioned Annexures or any other relevant document?

- All documents duly signed/certified must reach on/before Monday, July 26, 2021 to Company and/or its Registrar & Share Transfer Agent:
 - NIIT Limited
Investor Services
Registered Office: 8, Balaji Estate, First Floor,
Guru Ravi Das Marg, Kalkaji, New Delhi - 110 019
E-Mail: investors@niit.com
 - Alankit Assignments Limited (Registrar and Share Transfer Agent)
Alankit House, 4E/2, Jhandewalan Extension, New Delhi -110 055
Email: rta@alankit.com
- Failure to do so, will attract higher TDS rates as mentioned in the above paragraphs. Request and copy of documents to be sent through your registered email to the abovementioned email of Company and /or RTA. Otherwise copies of document be sent to the Company's abovementioned registered office address.
- If the tax on dividend is deducted at a higher rate in absence of receipt of or satisfactory completeness of the afore-mentioned details/documents, then the shareholder may claim an appropriate refund in their return of income filed with their respective Tax authorities.

16. How can I get Information on tax deducted on my dividend income?

- The Company will arrange to email a soft copy of the TDS certificate at the shareholders registered email ID in due course. Please ensure your correct email Id is updated in your demat account /physical folio. If not, please get it updated as soon as possible as prescribed above for PAN card updation.
- Shareholders will also be able to see the credit of TDS in Form 26AS, which can be downloaded from their income tax e-filing accounts at by following below process:-
 - (i) Login your tax account with user id and Password to
<https://eportal.incometax.gov.in/iec/foervices/#/login>

- (ii) Go to My Account Tab and select option View Form 26AS (Tax Credit)
 - (iii) Confirm the page and agree with terms and conditions
 - (iv) Now click on View Tax Credit (Form 26AS)
 - (v) Select Assessment Year 2022-23 and select view as HTML and then press the button on view/download
 - (vi) You will get your Form 26AS where you can see your TDS credit on dividend.
- Please note, TDS credit in Form 26AS would be reflected after the TDS Return is filed on a quarterly basis by the Company, and the same is processed by the Income-tax department.

17. For your queries:

- In case of any other query (if any), please write to us at investors@niit.com