BLICK ROTHENBERG
a part of AZETS

Property Tax Update

October 2022

Our Agenda

1. **Welcome**

   Introduction by Heather Powell, Head of Property & Construction

2. **Stamp Duty Land Tax**

   The latest changes affecting Stamp Duty

3. **VAT**

   The pitfalls and opportunities when undertaking residential conversions

4. **Corporate Tax**

   How to maximise tax deductions and reliefs

5. **Closing and Q&A**

6. **Food & Drink**

"Helping companies in the Property and Construction sectors to adapt and grow to the changing world and maximise their opportunities for growth"

capital allowance
corporation tax
inheritance tax
remediation relief
vat
r&d tax credit
income tax
sdlt
employment taxes

Stamp Duty Land Tax

Stamp Duty Land Tax

Mini Budget

- June-Oct 2021 stamp duty holiday revived indefinitely
- First-time buyer relief thresholds increased
- *See table of rates overleaf*

Post Mini-Budget Rates

Price (£)	Home mover (%)		Additional dwelling (%)		First-Time Buyer (%)		Company (envelope) (%)		Mixed/6+ (%)
	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	/
0–150k	0	2	3	5	0	2	/	/	0
150k-250k	0	2	3	5	0	2	/	/	2
250k–300k	5	7	8	10	0	2	/	/	5
300k-425k	5	7	8	10	0	2	/	/	5
425k-500k	5	7	8	10	5	7	/	/	5
500k-625k	5	7	8	10	5	7	15	17	5
625–925k	5	7	8	10	/	/	15	17	5
925k–1.5m	10	12	13	15	/	/	15	17	5
>1.5m	12	14	15	17	/	/	15	17	5

Stamp Duty Land Tax

Medium-Term Fiscal Plan

- Changes to mixed-use rule and multiple dwellings relief?

Stamp Duty Land Tax

Possible future statutory changes

- Surcharge for energy inefficient homes?
- Tiered or variable "additional dwelling" surcharge?
- Increase in anti-enveloping rate (15%)?
- Indirect charge on sales of land-rich companies?
- Simplification (e.g. seller pays)?

Stamp Duty Land Tax

<u>Future case law</u>

- Mixed-use (farmhouses)
- Multiple dwellings relief (annexes)
- Reclaims (rescinded contracts and mistakes)
- General SDLT anti-avoidance rule

Devolved stamp taxes

Changes in Wales

- Increase to nil-rate band threshold from £180,000 to £225,000
- New 6% tax band for £225,000 to £400,000
- Proposal to vary “additional dwelling” surcharge in Wales

Devolved stamp taxes

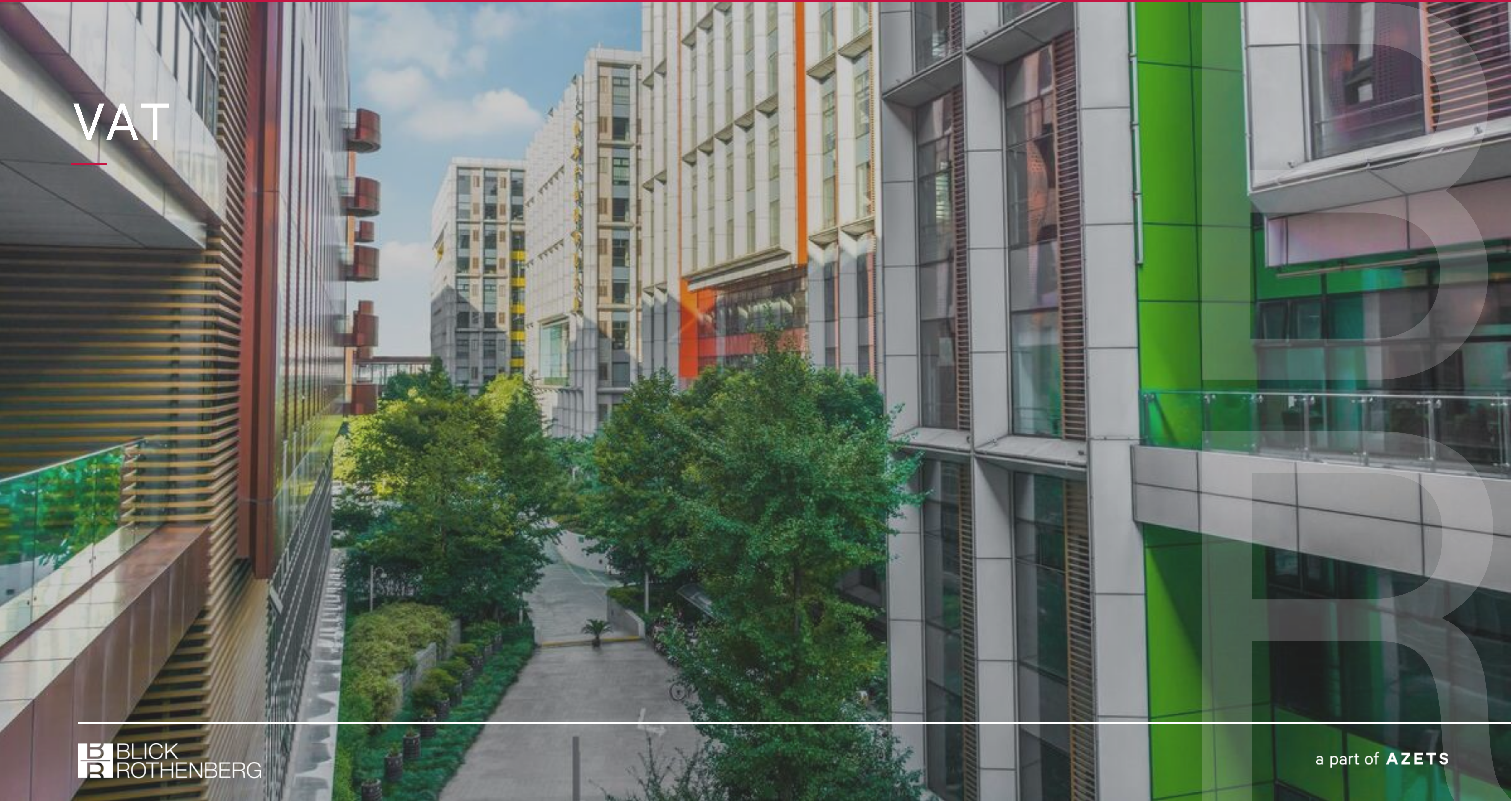
Changes in Northern Ireland

- Consultation on devolving taxes in Northern Ireland

Devolved stamp taxes

Changes in Scotland

- Consultation on fixing 4% “additional dwelling” surcharge



VAT

VAT on residential conversions – key points

- Maximise the 5% reduced rate of VAT
- Ensure where possible that there is a zero-rated grant of a major interest in the converted property
- Manage irrecoverable VAT where there is exempt short-term letting activities
- Consider the zero rate of VAT for the installation of energy saving materials
- Opportunities and pitfalls can arise in each of the above key areas

The 5% reduced rate of VAT

- Applies to:
    - A conversion from non-residential use to residential use.
    - A conversion from one type of residential use to a different type of residential use.
    - A refurbishment resulting in a change in the number of self-contained dwellings within the building.
    - A refurbishment of residential property that has been empty for more than 2 years.
- The 5% rate only applies to construction services carried out to the fabric of the building (and any building materials supplied in the course of an eligible conversion or refurbishment service).
- The 5% does not apply to non-construction services such as the professional fees of architects, surveyors, consultants, etc.
- VAT overcharged by contractors will not be recoverable from HMRC.

Zero rated first grant of a major interest in converted property

- Meaning a freehold sale or grant of a leasehold interest in excess of 21 years.
- The grant must be made by the person carrying out the conversion.
- Short-term letting is an exempt activity – so no VAT recovery!
  - Build to sell – negligible VAT costs
  - Build to rent – potential irrecoverable VAT
- Opportunity – consider crystallising the grant of a major interest by transferring the property to an associated (non-VAT grouped) entity.
- Potential pitfalls – must ensure eligibility for SDLT group relief, and there is no appropriation of the property from trading stock to fixed assets that could create a deemed profit for Corporation Tax.
- This is a commonly used VAT planning arrangement which has historically been accepted by HMRC.

Managing irrecoverable VAT for short-term letting activities

- Opportunity - consider use of HMRC's "discretionary" method to calculate the VAT claw back:

  - Based on the ratio between the value of exempt rental income receivable during the period of temporary letting and the value of the estimated sales value.
  - One-off adjustment when the intention to let is first made (one-off).
  - Period of temporary letting is not defined.
  - Intention to sell must be retained and demonstrated and eventually fulfilled.
  - VAT claw back usually relatively small.

- Pitfall – a permanent change of intention to short-term letting will result in a further claw back of VAT.

- Pitfall – if HMRC challenge, they could decide not to exercise its discretion. Therefore, arrangements need to be carefully implemented, well documented and undertaken in a timely manner.

Zero rate of VAT for installation of energy saving materials

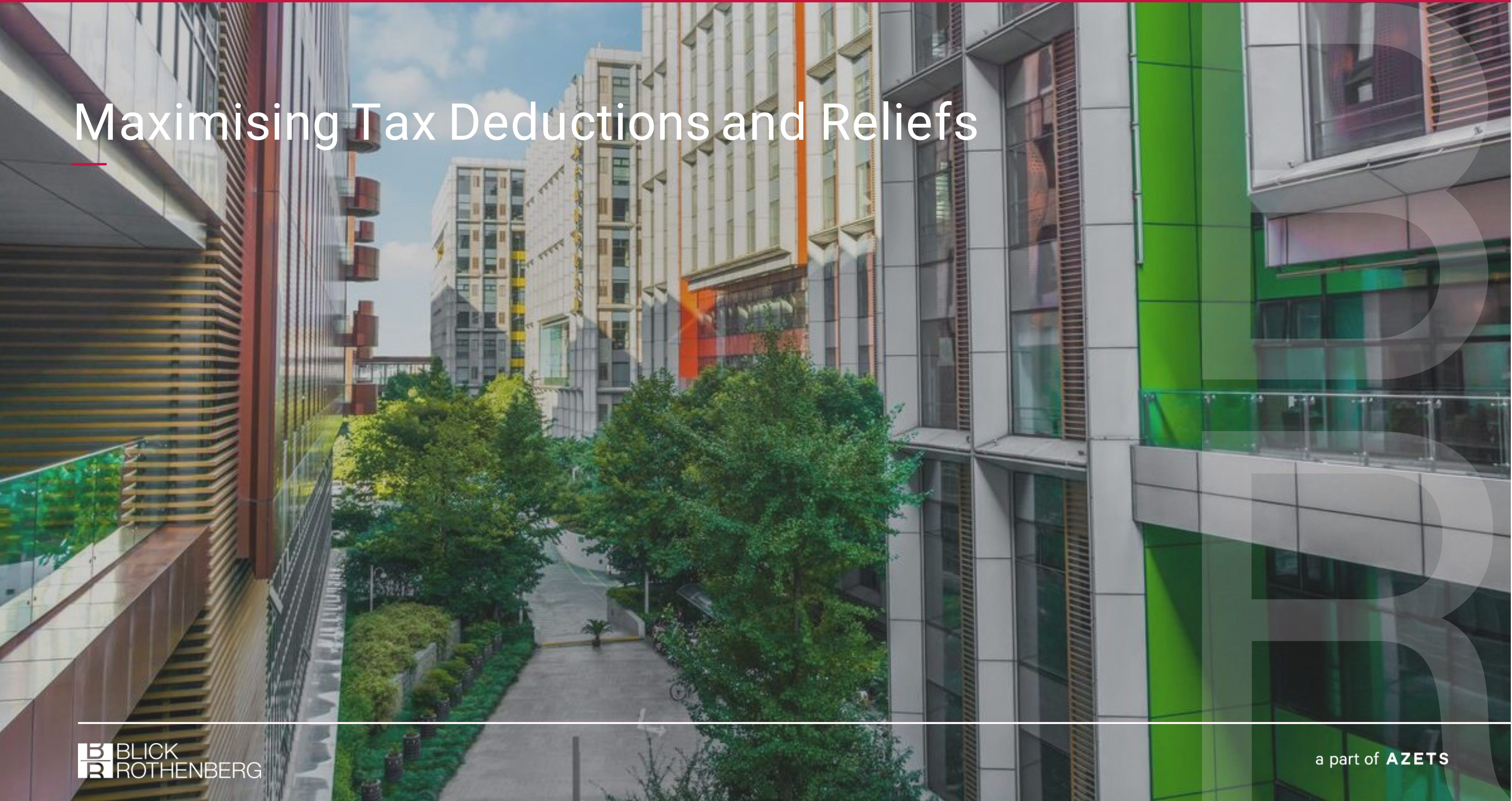
- Complex EU rules relaxed from 1 April 2022 and the 5% reduced rate replaced by the zero rate (for the next 5 years).
- Zero rate is now available for all properties and not just for social housing, or occupants in receipt of benefits and for the over 60s.
- The 60% value of materials to labour test withdraw (solar panels are now eligible).

- Pitfall – the zero rate only applies where the supply is primarily one of installation of energy saving products, and careful consideration is required to ensure the conditions for eligibility are met, including:

  - Avoiding supplies of materials only – always standard rated
  - Installation is not part of a larger supply of construction services (there is no scope for apportionment – contrary to most other construction related services).

- Opportunities – consider separate contracts or, even better, sourcing the installation services from a different supplier to that providing other construction services.

Maximising Tax Deductions and Reliefs



My focus today

1. Back to basics
2. Loss relief
3. Interest relief
4. Qualified relief for capex and R&D

Back to basics

- Remember that ALL UK property income and gains is taxable
- Trading or non-trading? Very different tax reliefs
- From 1 April 2023, Corporation Tax relief increasing to 25% on profits >£250k and increasing to 26.5% on profits between £50k and £250k
- “Wholly and exclusively” is critical

‘A qualified relief’

- Capital allowances:
  - ‘Permanent ‘ annual investment allowance (AIA) of £1m p.a. (no U-turn!)
  - 130% super-deduction ends on 31 March 2023
  - Investment zones: 100% FYAs for 10 years and 20% SBAs

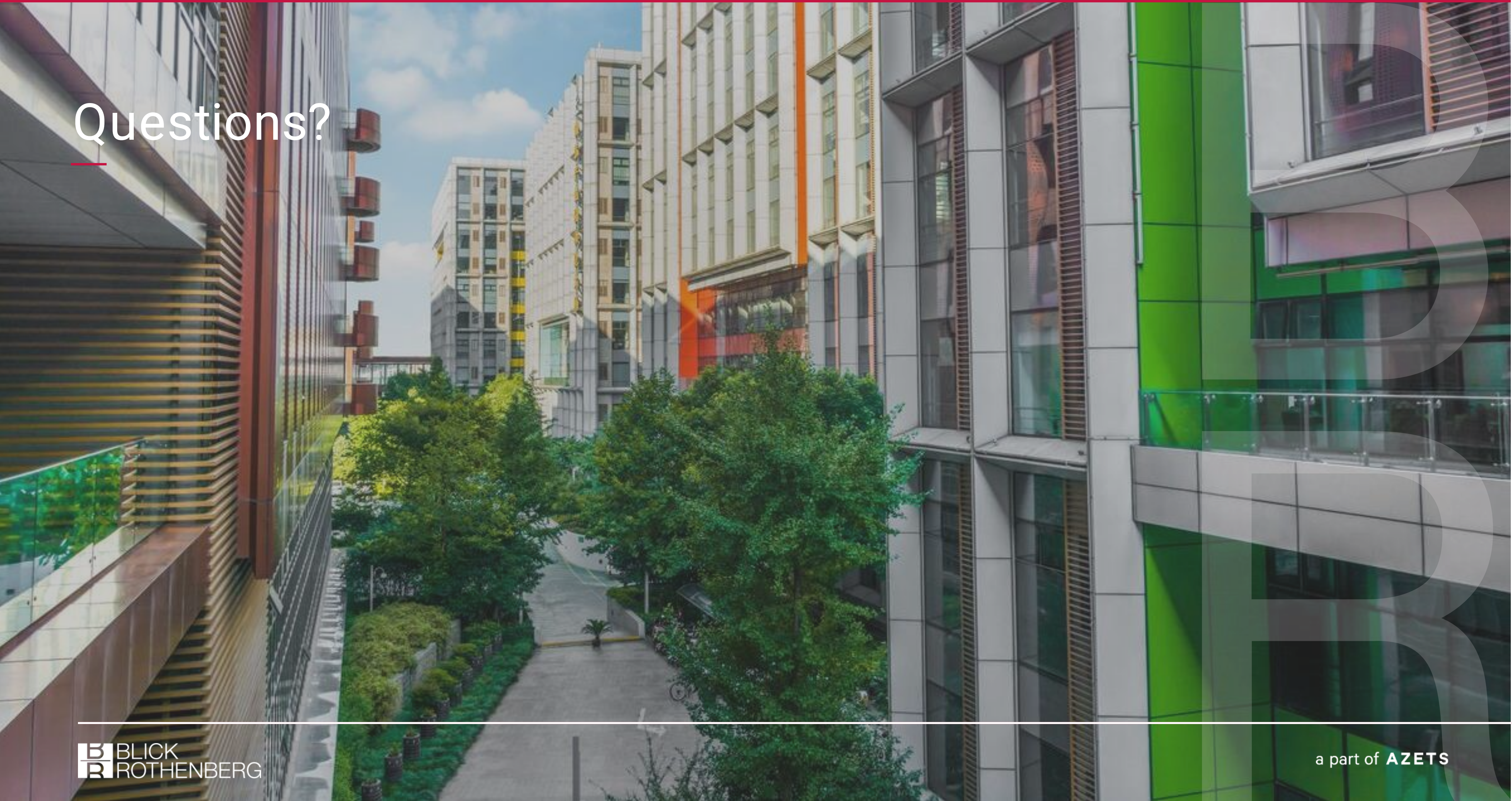
- R&D enhanced relief:
  - Either:
    - Tax credit of up to 33p every £1 of qualifying spend (loss maker)
    - Tax relief of up to 61% assuming tax at 26.5% (profit maker)
  - But project must make an advance in science or technology

'Don't bet on debt'

- Thin capitalisation
- Profit fragmentation
- Corporate interest restriction
- Unallowable purpose
- Withholding tax

'Boss the loss!'

- Carry back losses:
    - Not allowed for property business losses
    - One year for trading losses; extended to three years for periods ending between April 2020 and March 2022
    - One year for surplus interest expense against interest income
- Carry forward losses:
    - Relieve total profits or group relief
    - Must claim within 2 years
    - Relief restricted if profits exceed £5m
    - Watch out for changes of control
    - Overseas property losses ringfenced



Questions?

Contact details

Thank you

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