# A case of asset shielding

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Introduction

- Institution: Special Secretariat of the Federal Revenue of Brazil (RFB)

- Projection: Tax Credit Guarantee

- Origin: court order asking for information about a **big debtor** in Judicial Recovery process

  - Anonymous report from a "desperate creditor"

- Crime: evidence of fraud against creditors

- There was no Inter-agency or international co-operation in the elaboration of the information

- Results (Justice Secret):
  - Incidental proceeding of disregarding of corporate entity
  - Freezing and seizing assets (shell companies)
  - Criminal repercussions (e.g., misrepresentation)
  - Reflections on the judicial recovery process
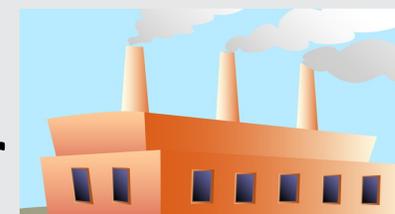
INVESTIGATIVE TECHNIQUES

- Relationship graph: Family Group, Circle of Trust and Economic Group

  - global vision (people and business)

- Information Sources:

  - registration data

  - electronic tax documents (SPED NF-e)

  - accounting records (SPED ECF and ECD)

  - bank information (SPED e-Financial)

  - public powers of attorney or to represent before the RFB

  - declarations about assets and rights

  - declaration about transaction with real property

  - tax collection guides

  - social contracts of companies

  - company employee data, employee occupation, salary

  - electronic judicial process

Sped SISTEMA PÚBLICO DE ESCRITURAÇÃO DIGITAL
http://sped.rfb.gov.br/

INVESTIGATIVE TECHNIQUES

- Who else? Or "back to front"

1 - Filter: ID

Who else resides or has resided at this address?

2 - Filter: Address

- Coincidences:

    - e-mail, address, Mac Address, telephone, accountant

    - bank agencies and city where fees are collected

    - suppliers, customers, service providers, representatives

    - form of filling tax documents (e.g., product description, contact details)

Product	
Code	Description
000101	white cotton ball
000102	yellow cotton ball
000103	green cotton ball

Code with 6 digits; description starts with the color of the product

    - product delivery address in tax documents

- Symmetry of behaviors or structures

Partner   Partner

Son

- What does the company need to operate?

- Tracking of assets: who are the assets currently with?
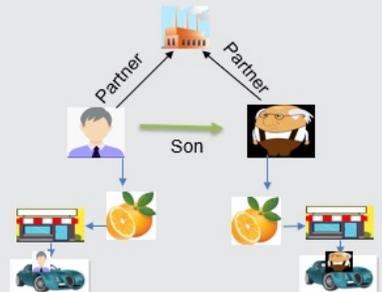
INVESTIGATIVE TECHNIQUES

- Identification of facts that are legal, possible, but are WEIRD

  - person: economic capacity, professional experience, age

  - companies: existence of employees, capacity of operation / social capital, establishment size, age, how long the partners stay in the company

- Identification of converging evidence proof to increase conviction

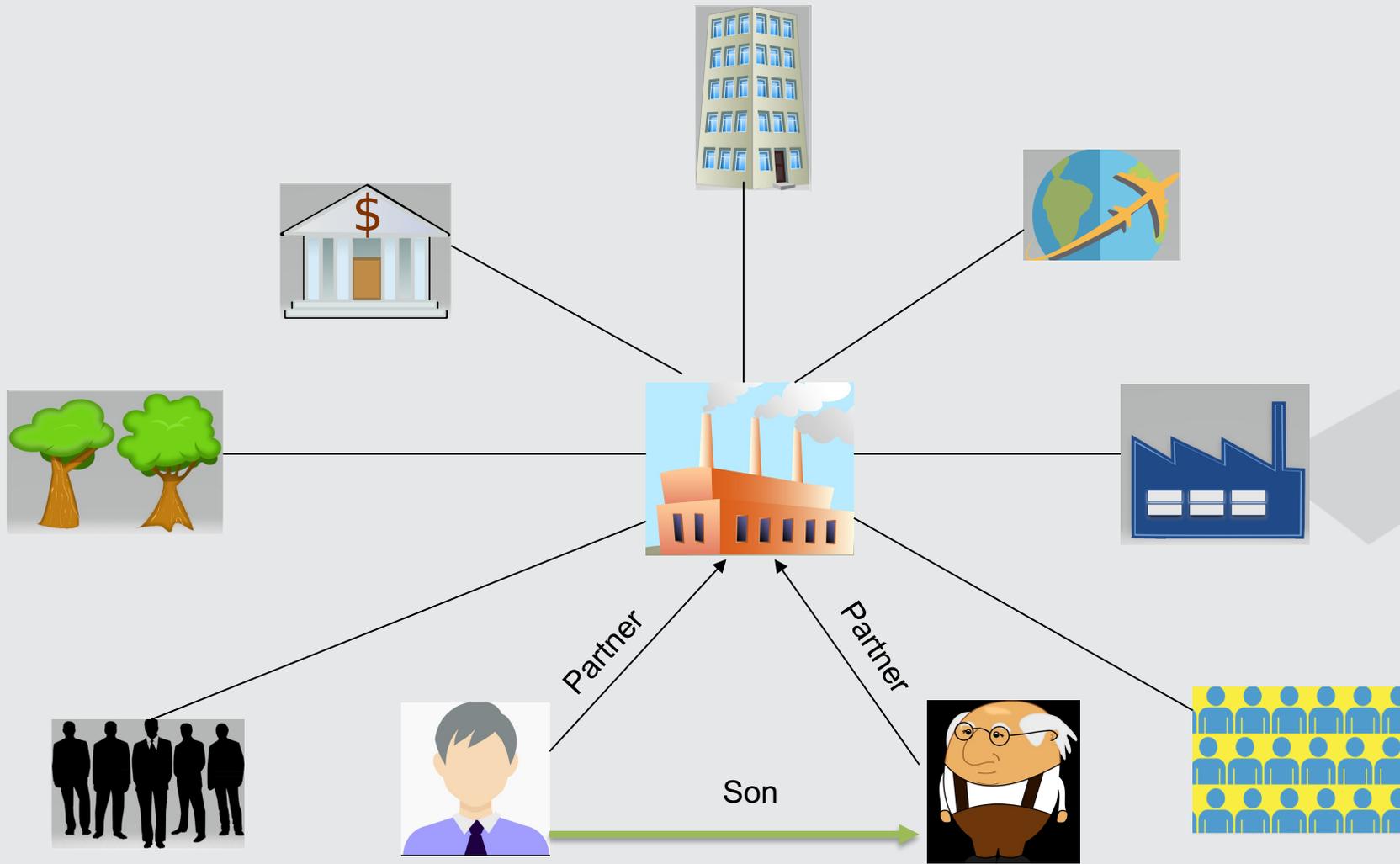- Employee migration check

- Chronology of the facts or timeline
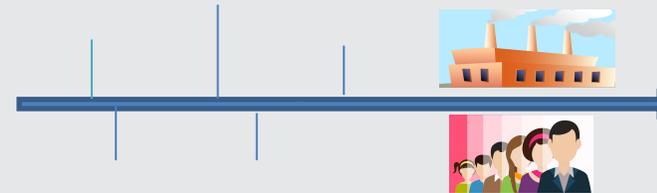
- Scoring System (higher score = higher risk): mass application / suppliers, service providers, customers and companies on behalf of family members or employees in order to identify shell companies   or interposed people ("orange")

Relationships Graph: Family Group

Graphs can be assembled individually, depending on the information source or purpose. E.g., Family

Daughter

Daughter

Son in law

Son

Son

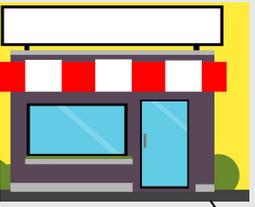Married

Daughter

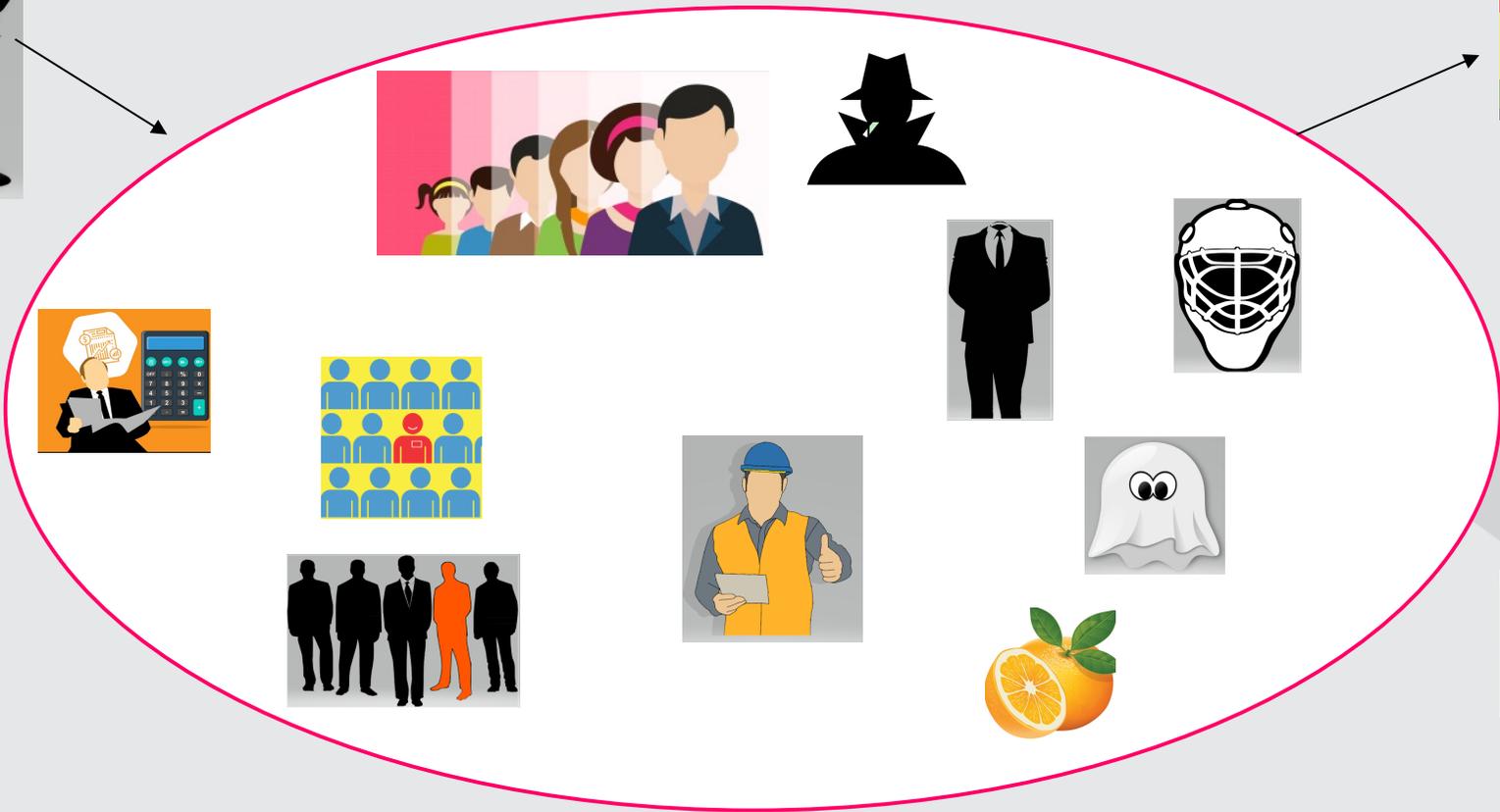Son

Uncle

Daughter

Brothers
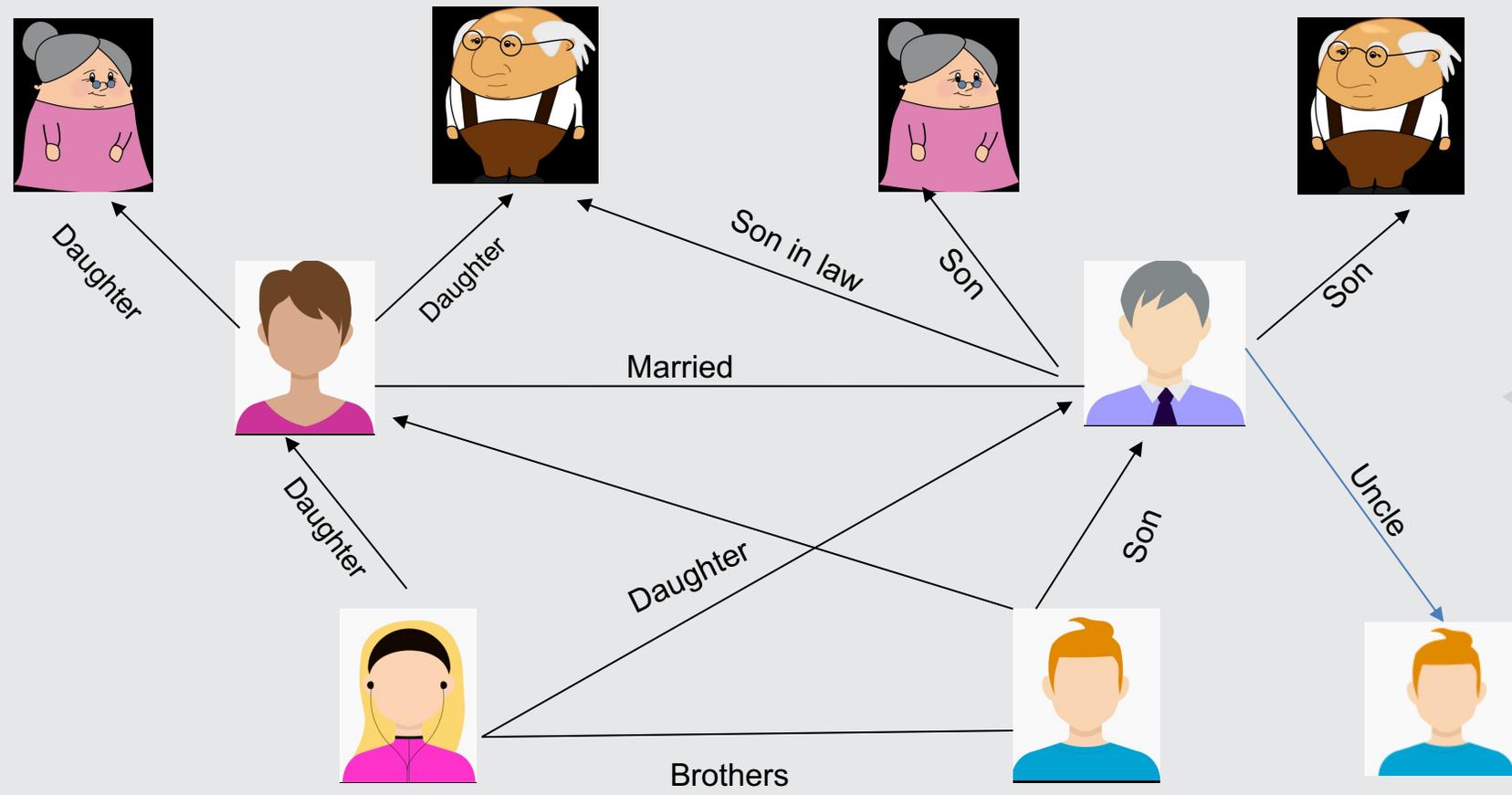
Relationships Graph: Third Parties

Different graphs can be joined into a single relationship graph. E.g., family and third parties that relate to the company.

Partner

Partner

Son

"Circle of Trust"
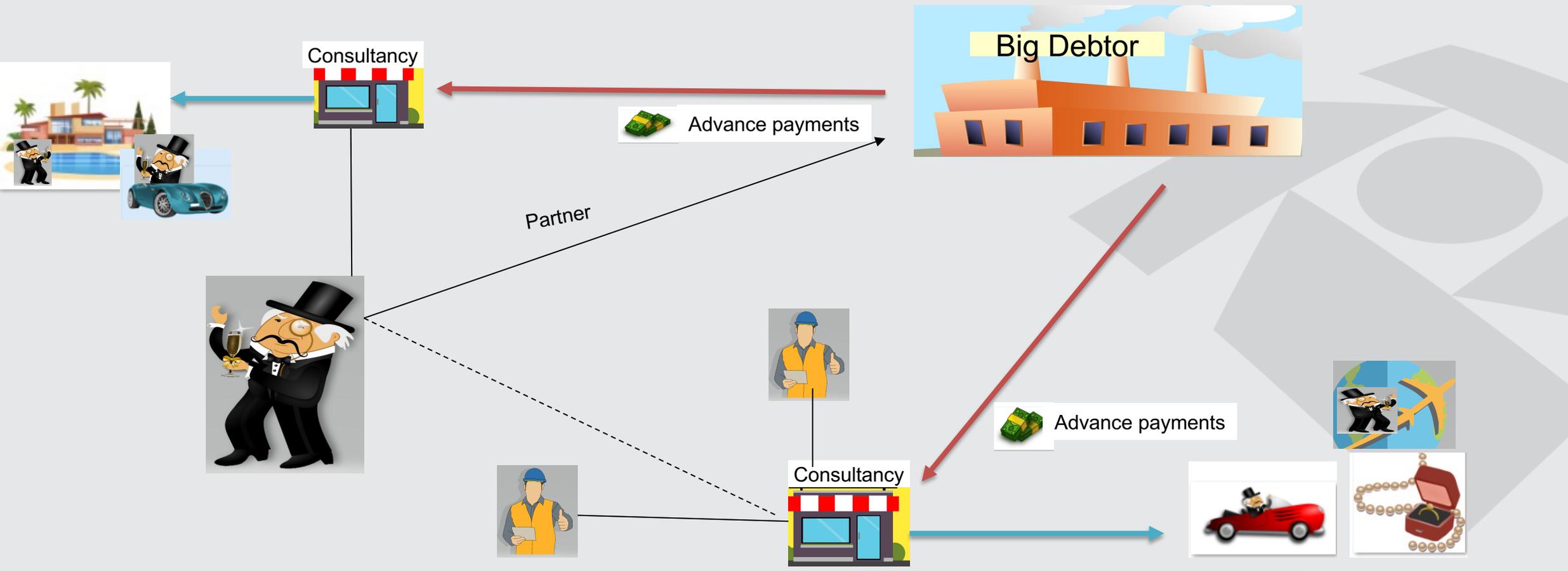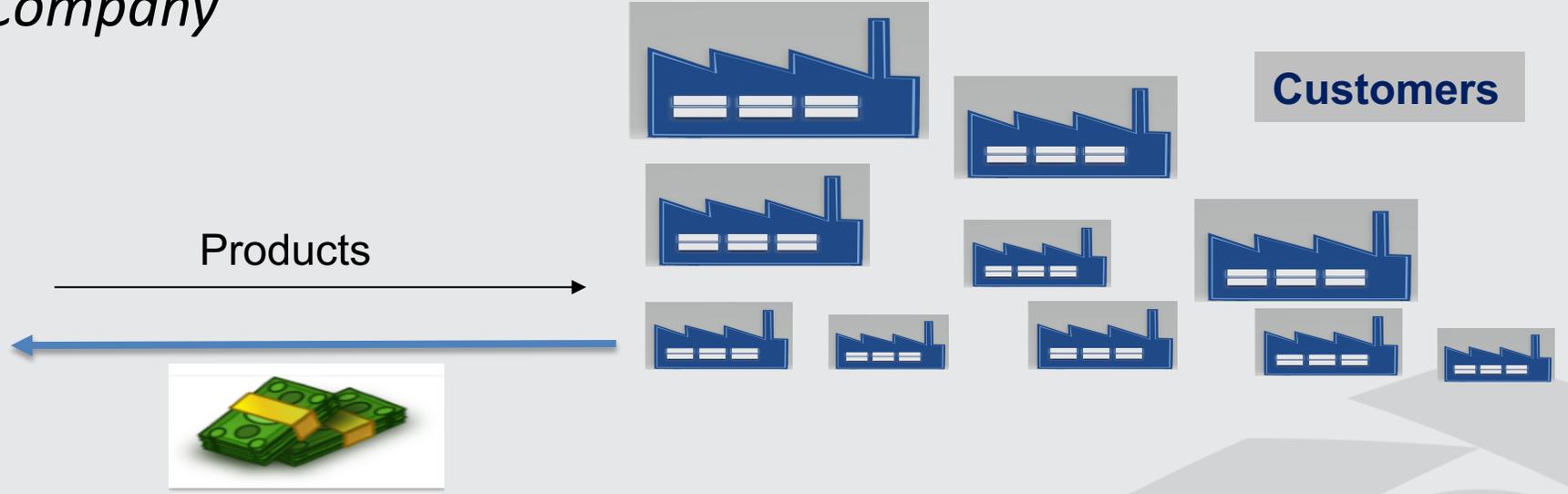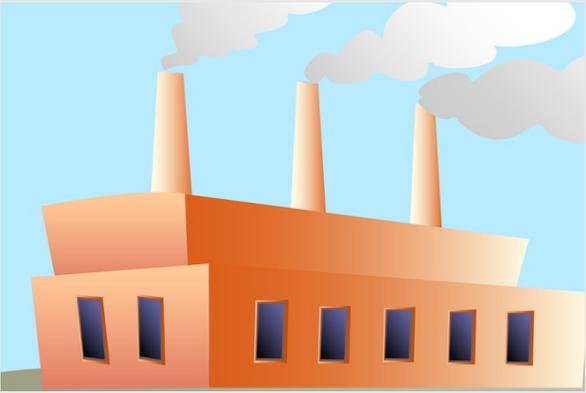
The case

Big Debtor

Partner

Simulation of Service Provision

- Cash outflows in anticipation of services that had not yet been performed
- Payments claimed as deduction for tax purposes
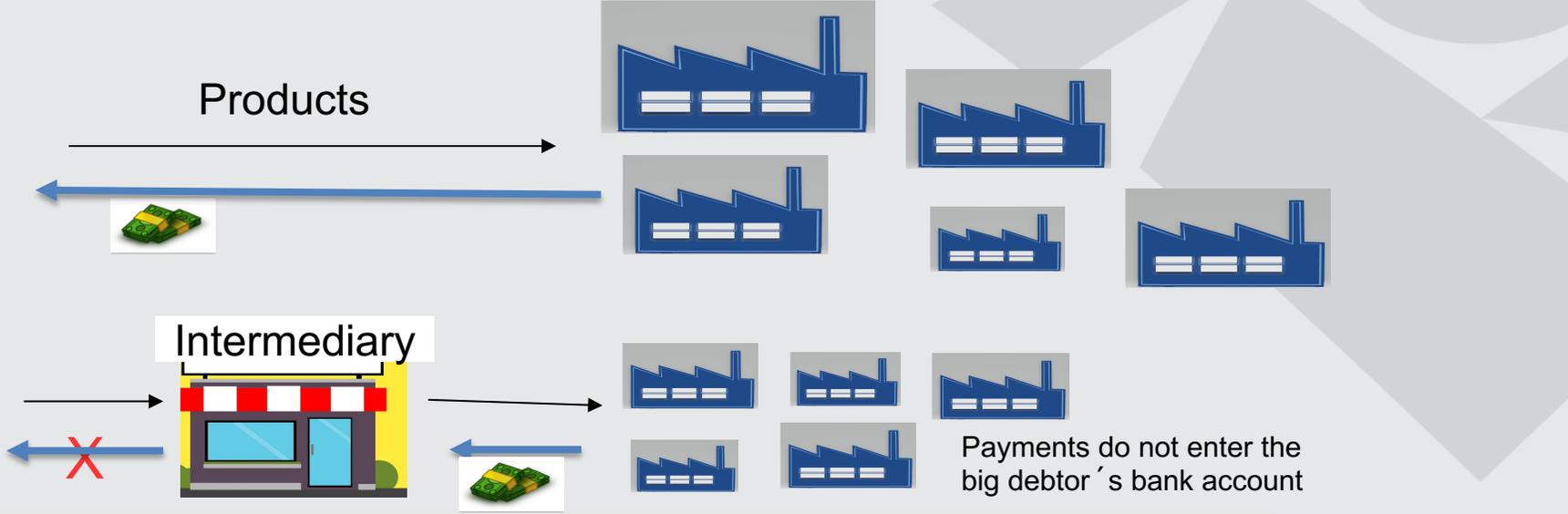- Way to get money out of the company

Consultancy

Big Debtor

Advance payments

Partner

Advance payments

Consultancy

A case of asset shielding

Intermediary Company

Big Debtor – Moment 1

Products

Customers

Big Debtor – Moment 2

Products

Intermediary

Payments do not enter the big debtor´s bank account

Federal Revenue of Brazil

A case of asset shielding

Coincidences (illustrative)

WHO ELSE informed the same accountant?

Big Debtor

Asset Management

Administrative Services

"Restaurant" / Assets

Contractor

Consultancy

Administrative Services

Consultancy

Administrative Services

Federal Revenue of Brazil
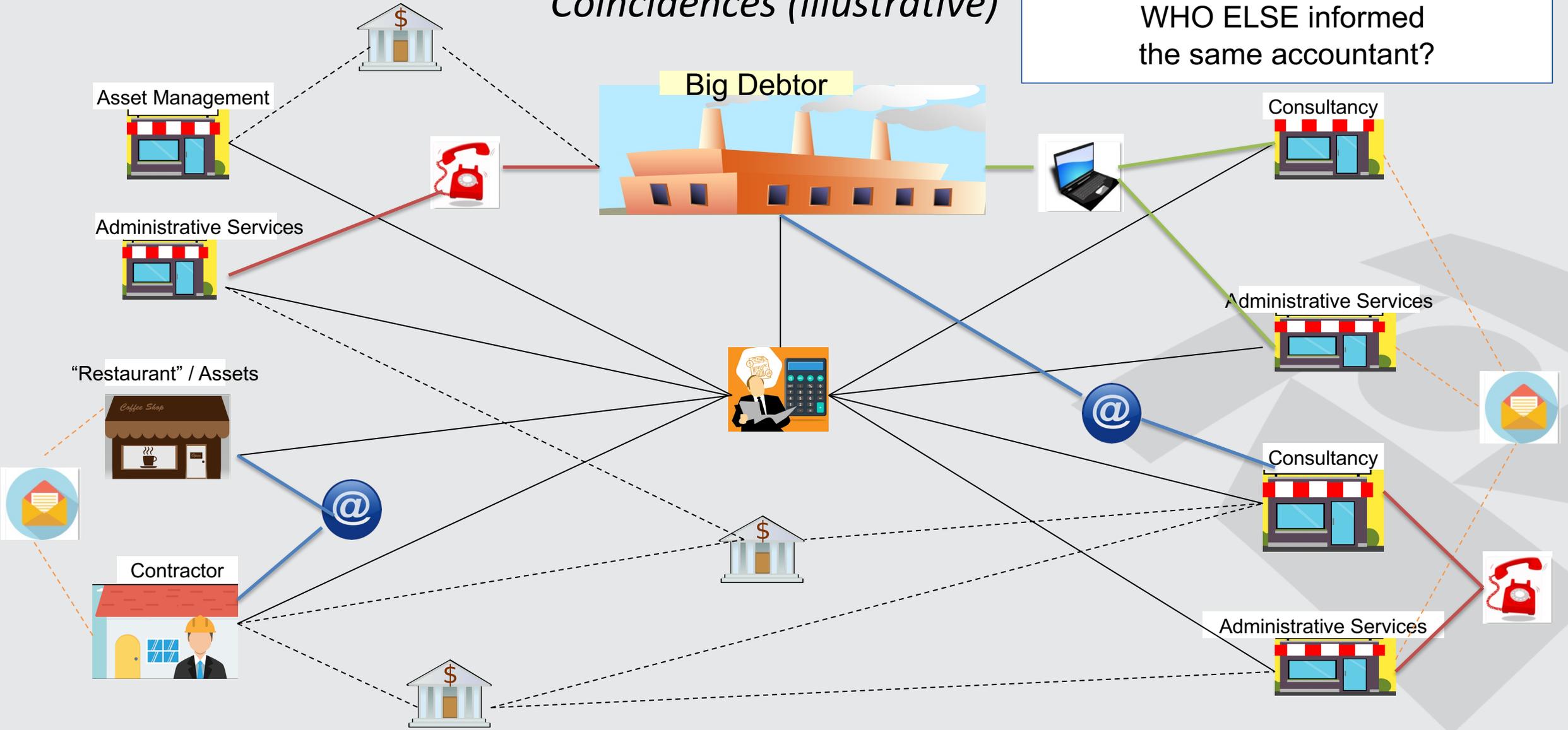
Thank you!

June 8th, 2022

Pictures: https://pixabay.com/pt/