



# ASSET RECOVERY

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# Topic Outline

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1. Asset Categories and Types
2. Asset Recovery – Case Management, Plan and Process
3. Practice and Strategies
4. Case Studies
5. Challenges and Key Recommendations



# What is an asset?

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- International Financial Reporting Standards (IFRS) framework definition:
- *“An asset is a resource controlled by the enterprise as a result of past events and from which future economic benefits are expected to flow to the enterprise.”*
- In Financial Accounting:
- *“An asset is a resource owned or controlled by an individual, corporation or government with the expectation that it will generate a positive economic benefit.”*



# What is an asset?

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- *The practical definition that everyone can understand is:*
- An asset is:
  - anything of value that is owned
  - anything owned that has exchange value
  - anything that can be used to produce positive result



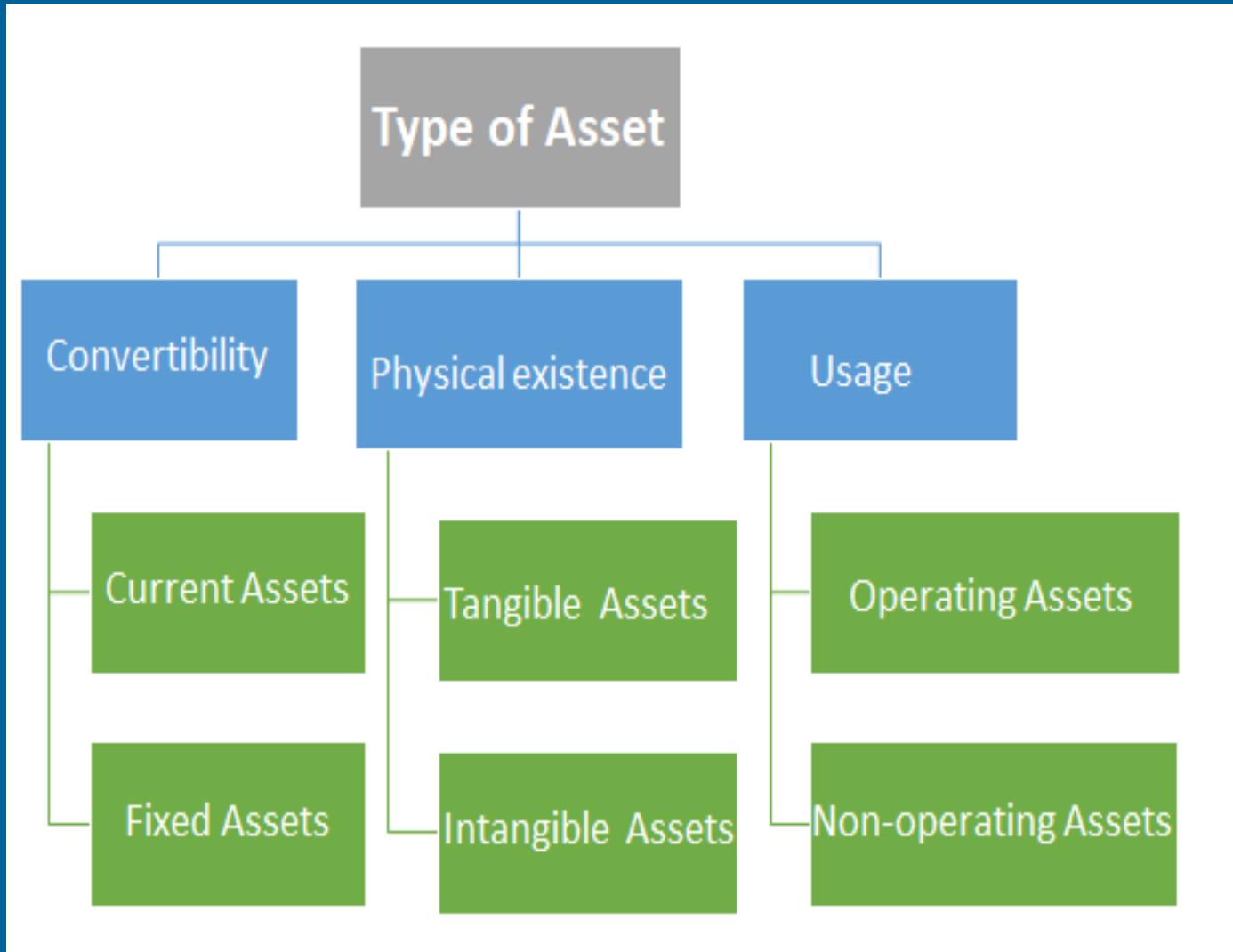
# Key Properties of Assets

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1. Ownership – Assets represent ownership that can be eventually turned to cash.
2. Economic Value – Assets have economic value and can be exchanged or sold.
3. Resource – Assets are resources that can be used to generate future benefits.



# Classification of Assets





# Convertibility

## Assets

Acquired/Purchased and Owned, having Value and available to meet Debts, Commitments or Legacies.

### Fixed Assets

Purchased for long-term use and are not likely to be converted quickly into cash.



Land



Machinery



Buildings

### Current Assets

Either cash, a cash equivalent, or anything which can be converted into cash within one year.



Cash



Bank Balance



Investments /deposits



Inventory



# Asset Categories and Types



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LIQUID ASSETS

Cash and cash equivalents

Investments

Real Properties

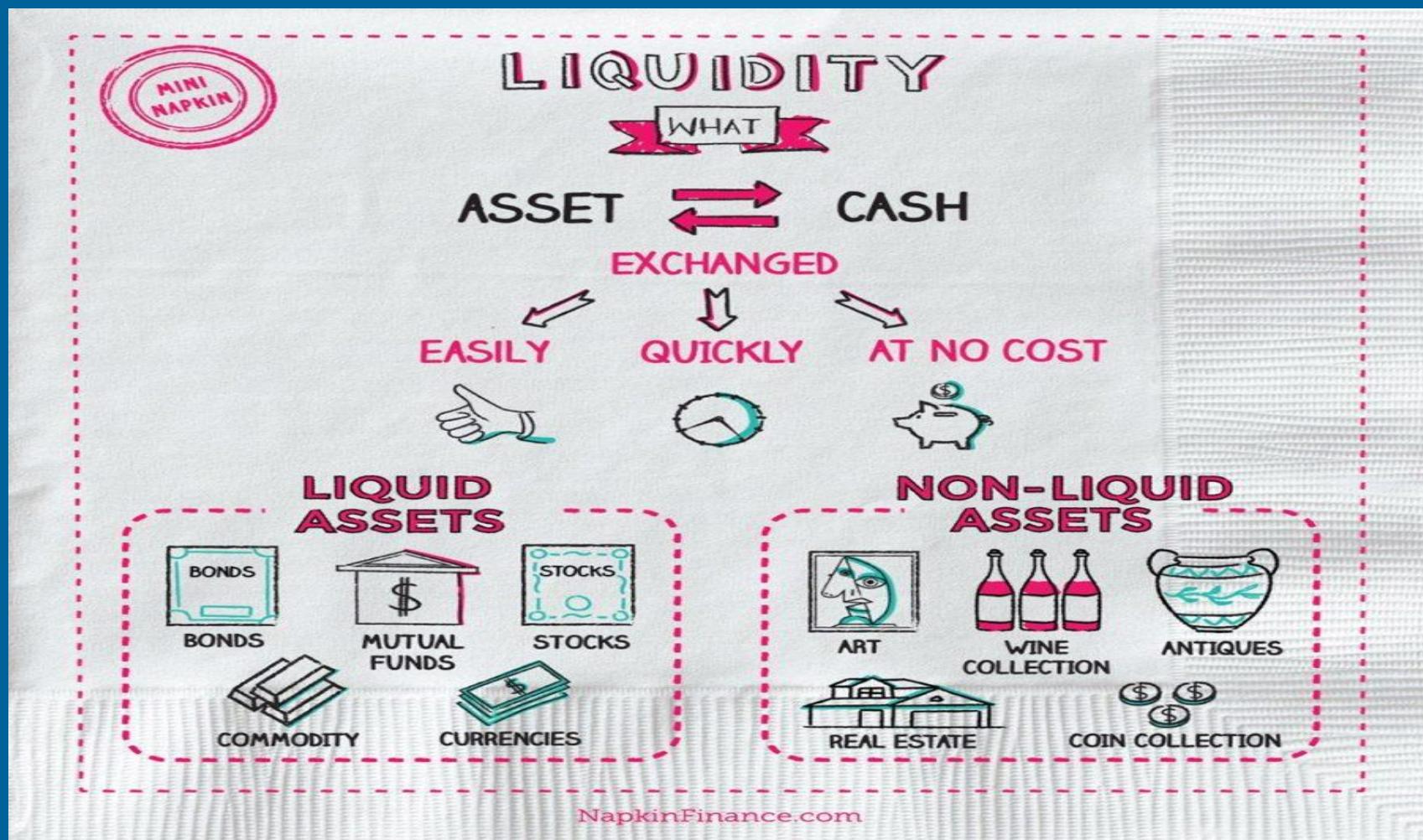
Personal Properties

NON-LIQUID ASSETS



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# Liquidity





# What is Asset Recovery?

involves multiple jurisdiction

complicated by technical, legal and/or political barriers

process of tracing, freezing, confiscating, and returning stolen assets to their country of origin

complex and lengthy one



**TIMING IS EVERYTHING!**





## Practical Exercise

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- Please discuss different asset types and for each asset type focus on:
  - Evidence (proof of ownership)
  - How to trace and locate this asset type
  - Source/s of information and intelligence
  - **Possibilities** (what kind of information can you get, what measures are possible)
  - Anything else that could be important...



## Practical Exercise

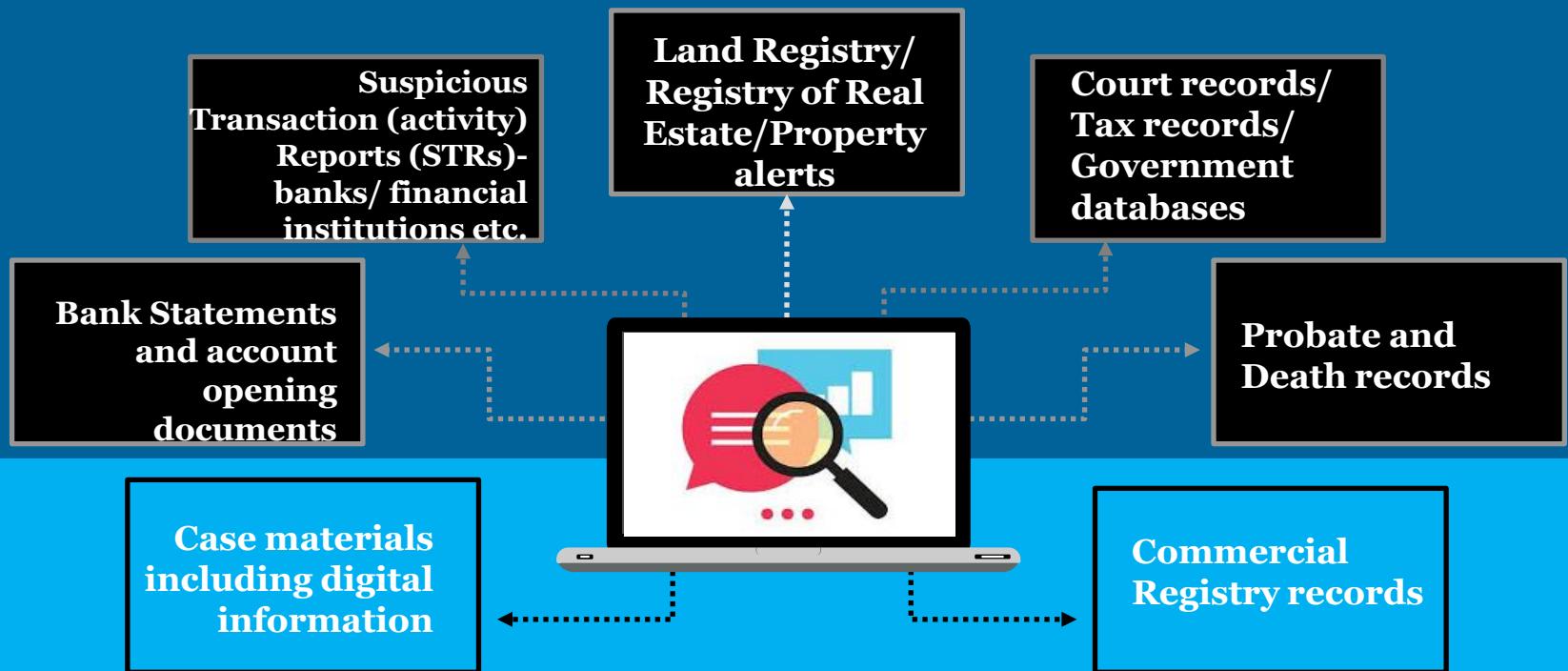
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- Group 1 – Real Properties
- Group 2 – Personal Properties
- Group 3 – Investments
- Group 4 – Cash and Cash Equivalents



# Sources of Information and Intelligence

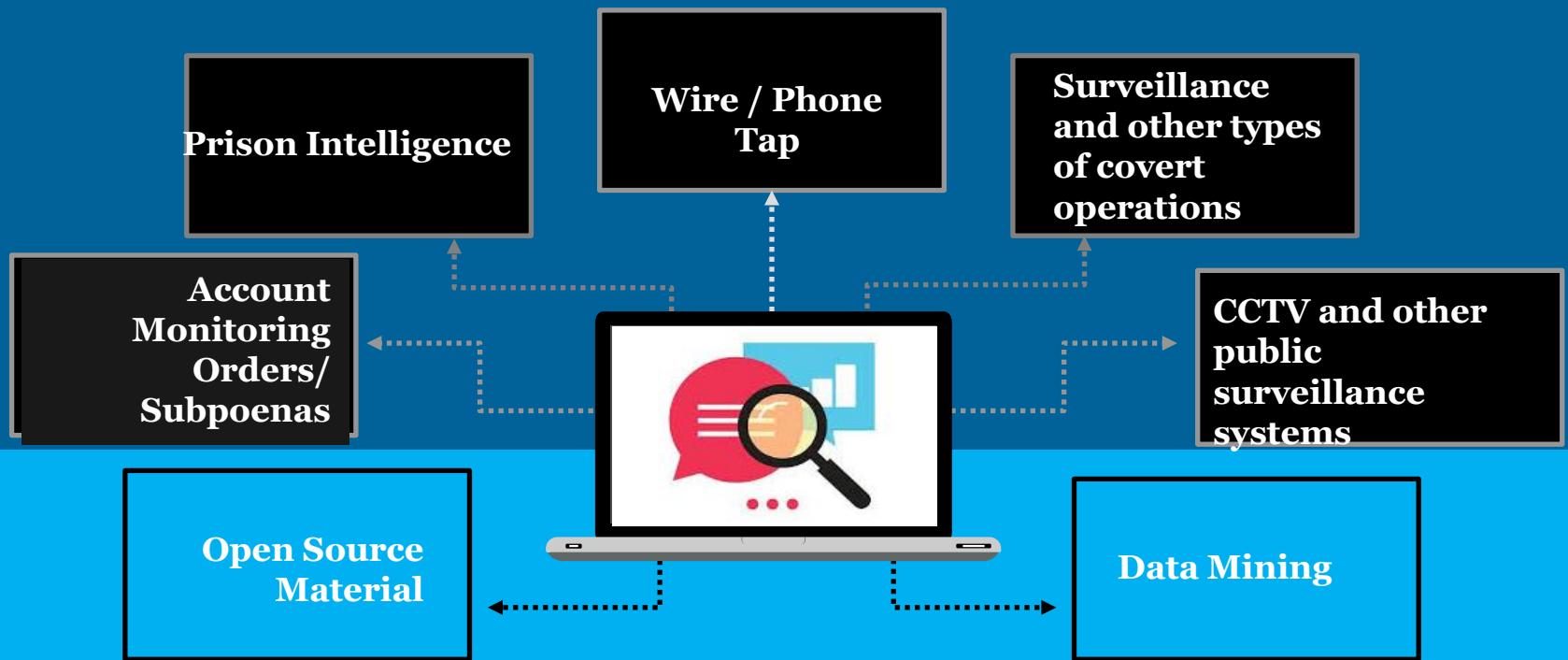
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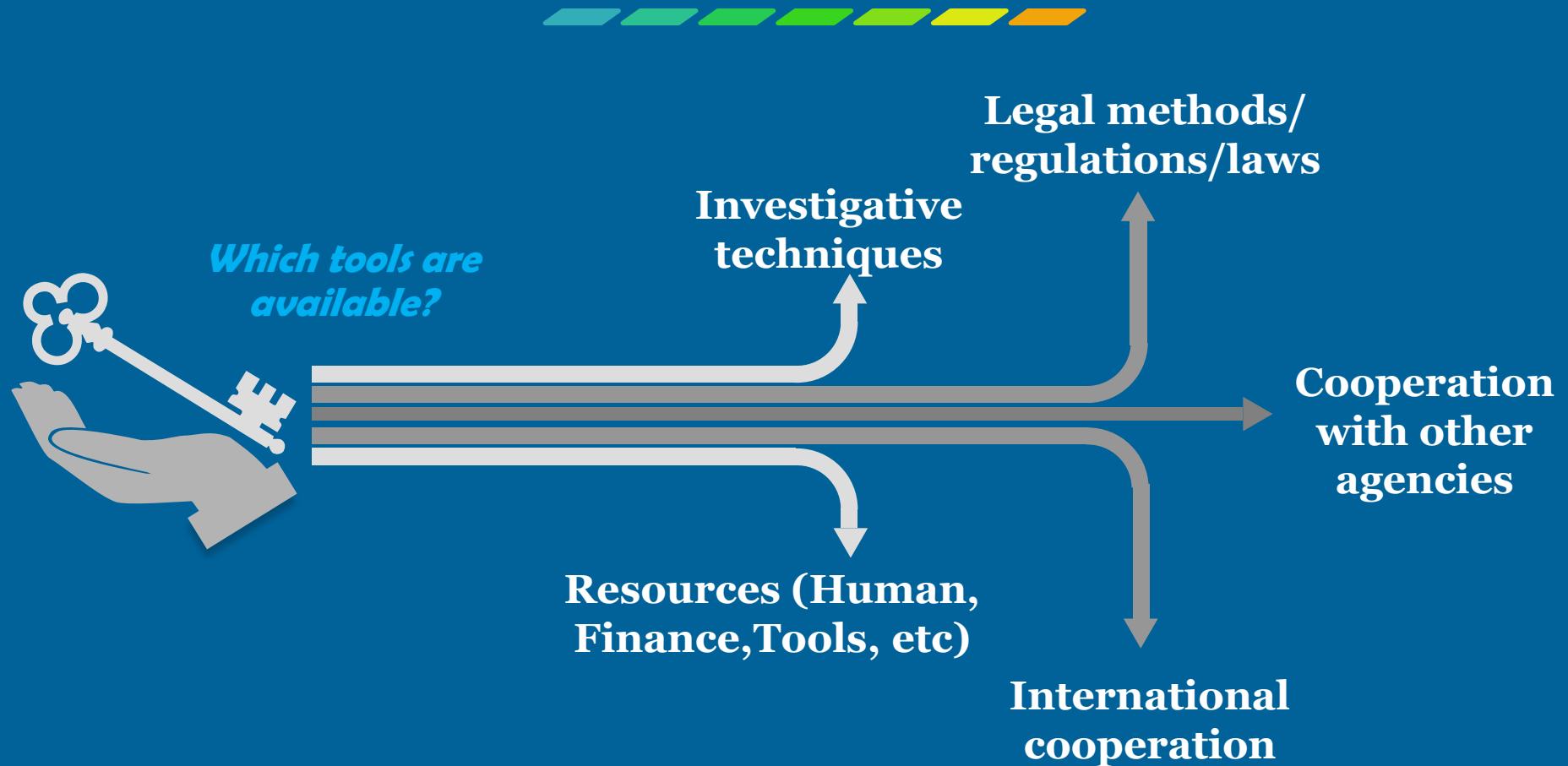
# Sources of Information and Intelligence

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# Case Management





# Case Management



*When you lead...*



Set  
directions



Allocate  
Resources



Inspire  
Actions



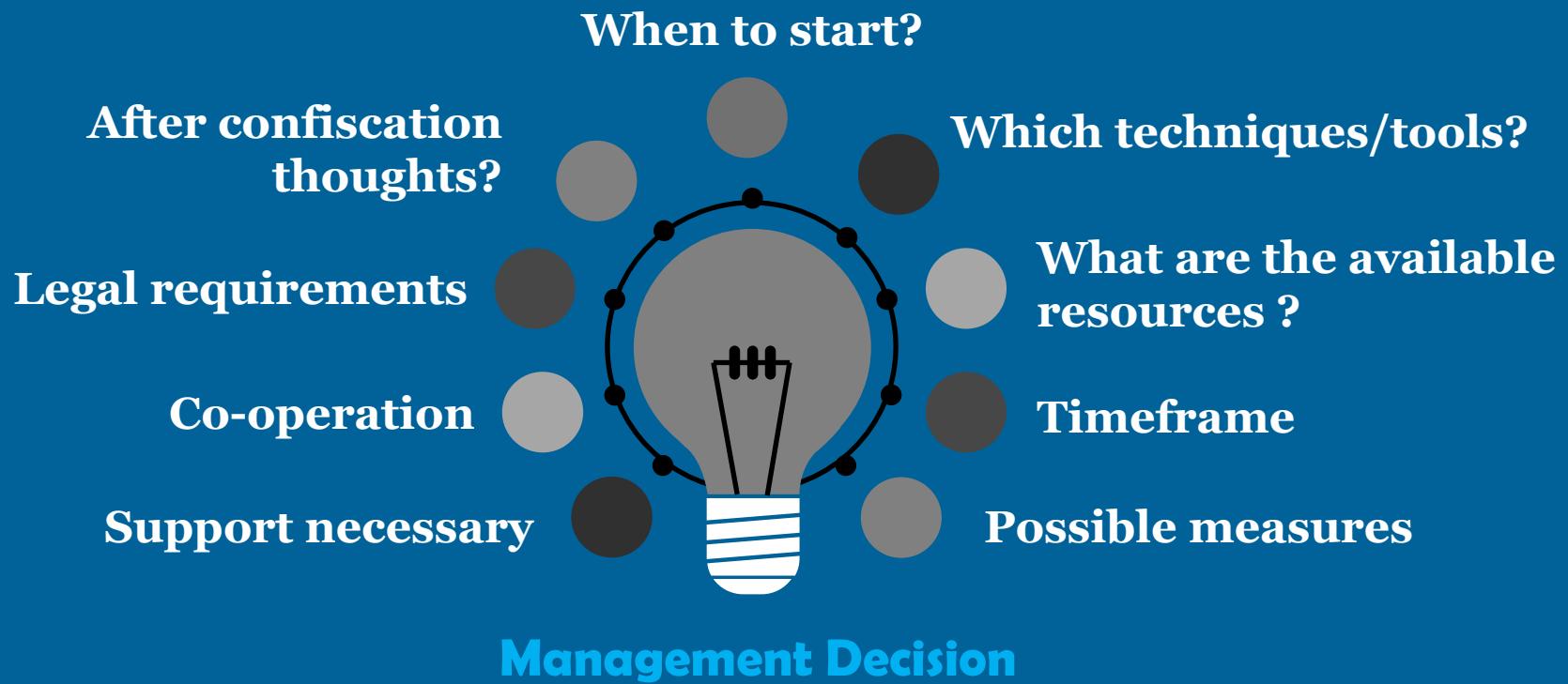
Be  
accountable  
for results



*TIMING IS EVERYTHING!*

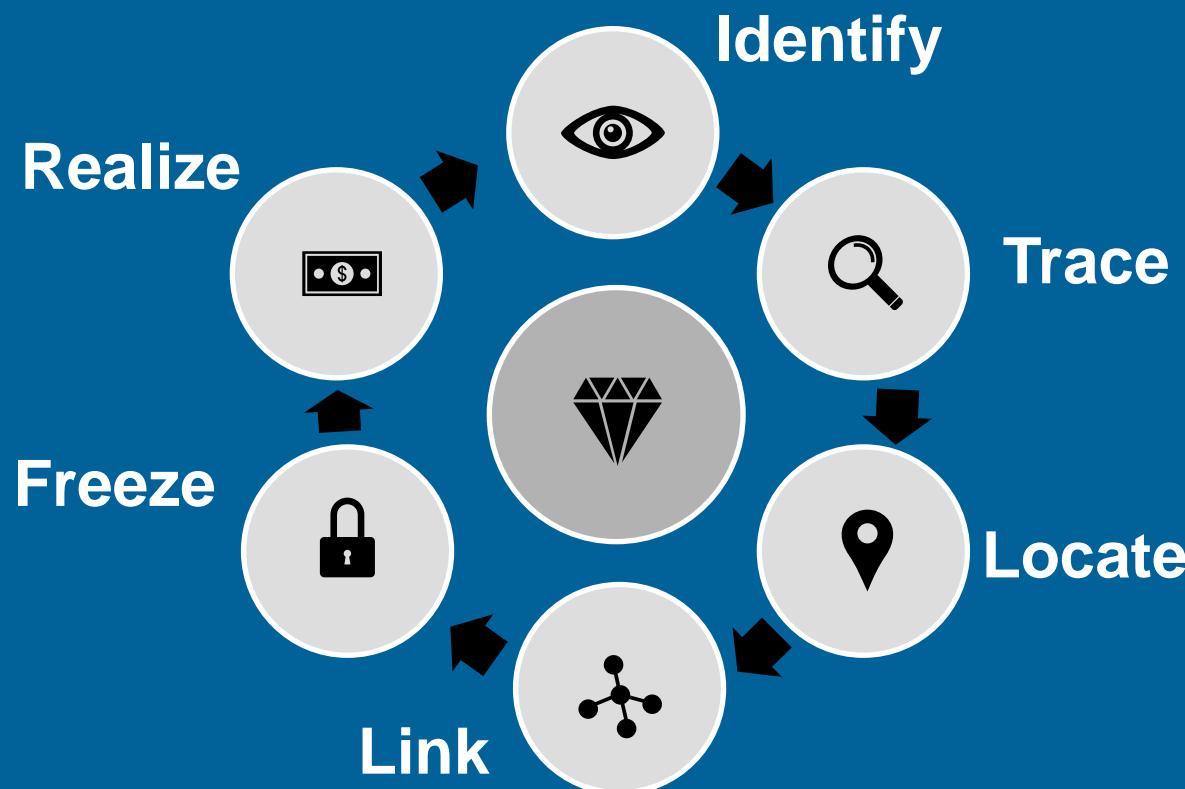


# Asset Recovery – Case Management



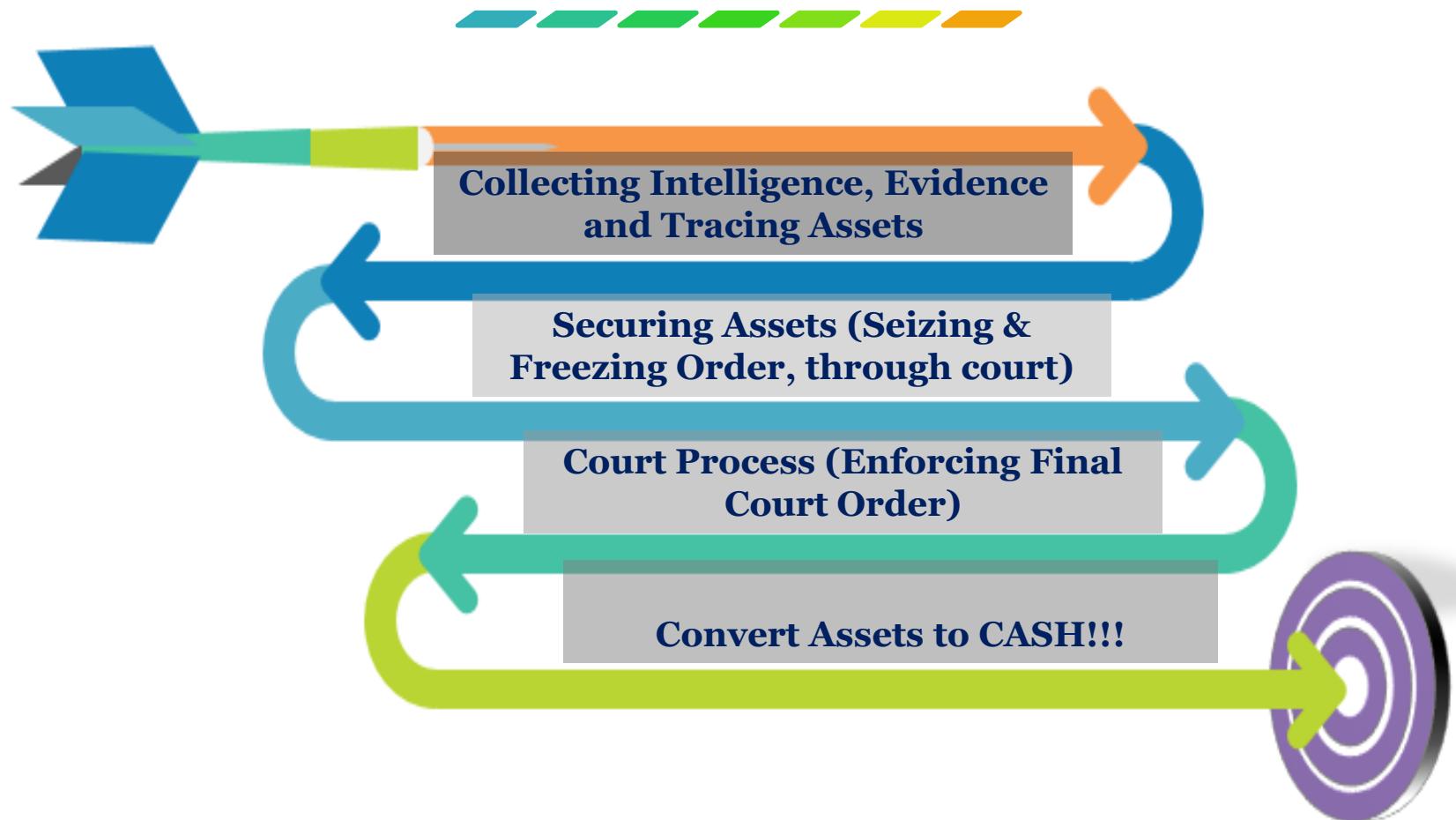


# The Asset Recovery Plan





# The Asset Recovery Process





# Asset Recovery Investigation

Asset recovery can be broadly divided into five stages:

Strategy and Planning

Asset Investigation

Preservation of Assets

Confiscation of Assets

Enforcement



# Preservation of Assets

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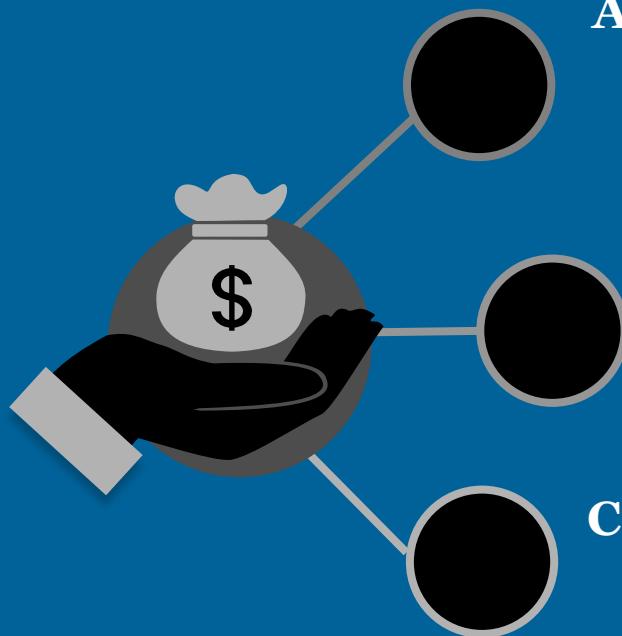
Two main methods of preserving assets:

- Freezing Orders (also called Restraint Orders, Attachments or Injunctions)
- Seizure Powers





# Different Types of Procedures



## Administrative

- In rem – action is against the property
- No judicial involvement

## Civil Judicial

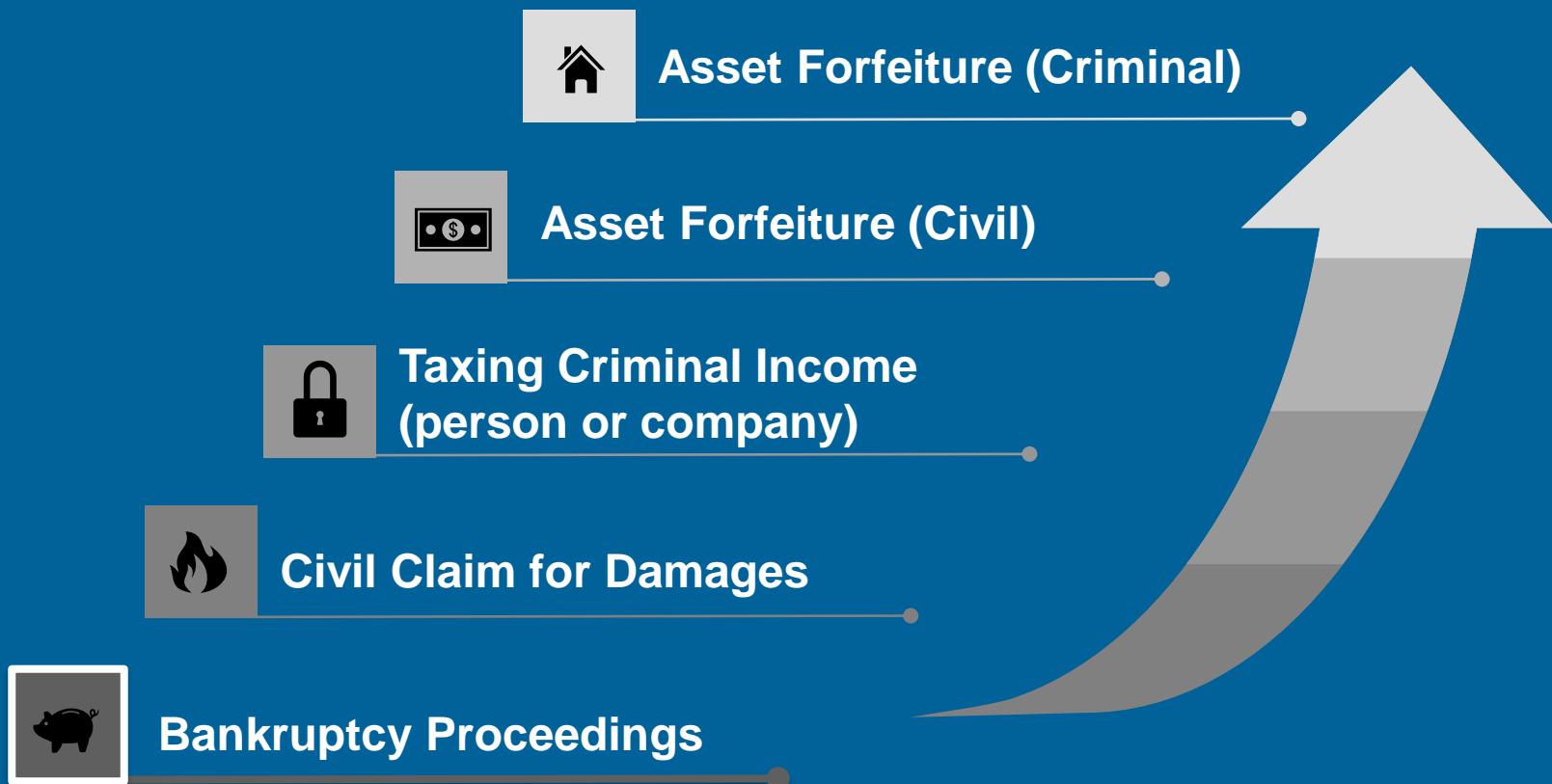
- In rem – action is against the property
- Complaint filed

## Criminal

- In personam – forfeiture is part of criminal prosecution
- Must have a criminal conviction on predicate offense and often a separate trial regarding the asset forfeiture
- In rem – forfeiture against property



# Ways to recover/proceeds from crime





# Asset Forfeiture - Criminal



**Imposed by court as part of the sentence for a crime**

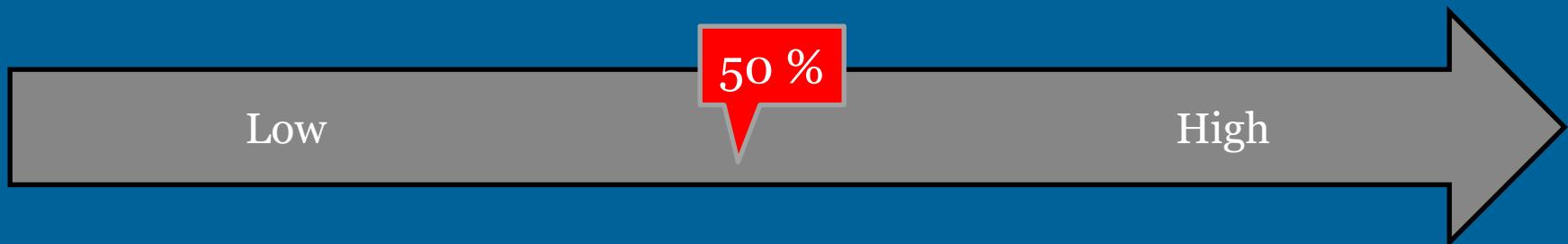
**Must meet the standard of proof in your jurisdiction, that property was a proceed of or is significantly connected to illegal activity**





# Standards/Quantum of Proof

Tracing assets/ evidence	Freezing/ Seizure Order	Criminal or NCB Confiscation Order	Criminal Conviction
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Reasonable grounds to suspect	Probable Cause or Reasonable Grounds to Believe	Balance of Probabilities or Preponderance of Evidence	Beyond Reasonable Doubt
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# Asset Forfeiture - Civil



**Important: Secure the claim as early as possible!**

- Prevents the defendant from hiding assets before trial!
- By use of conservatory measures

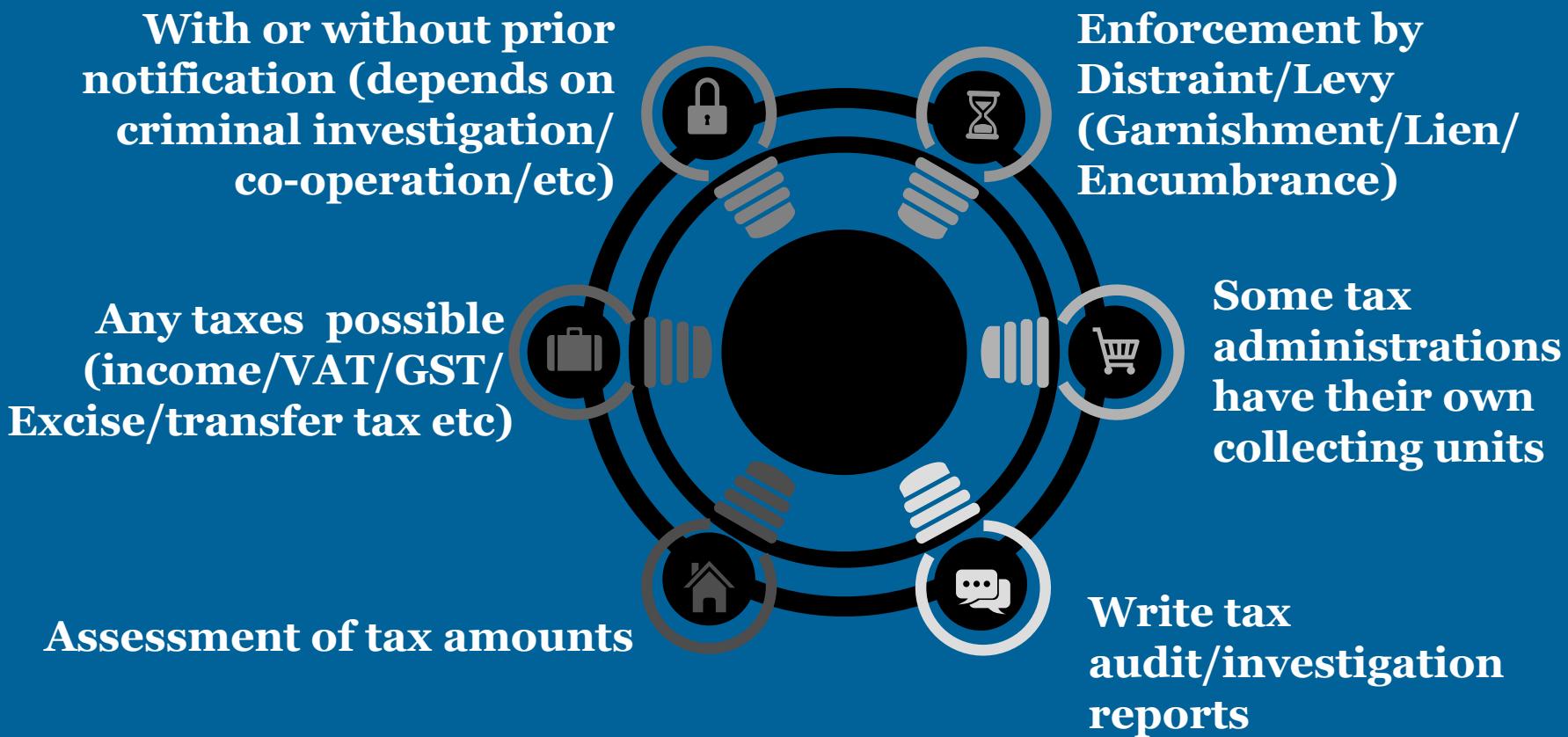
**E.G.: Cash/Asset Seizure**

- Securing the cash/assets for the later criminal or civil recovery action





# Taxing Criminal Income





# Legal Grounds

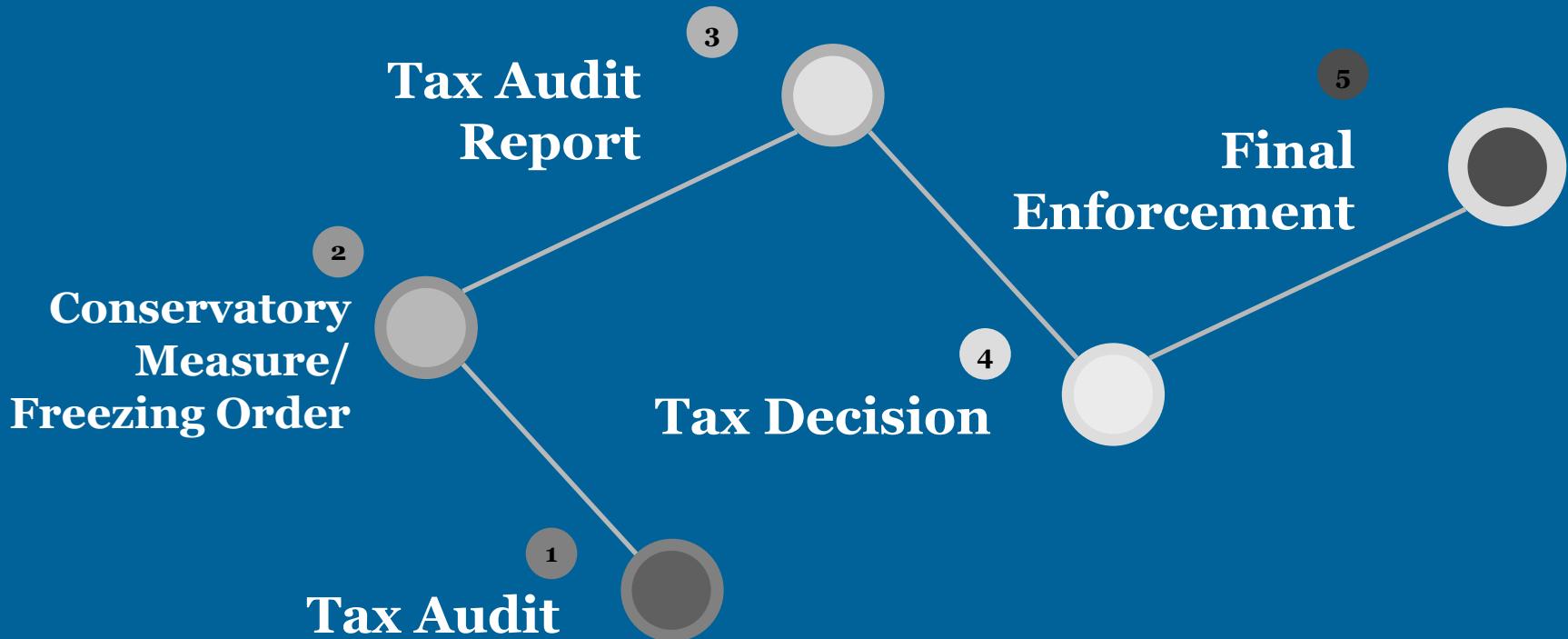


**Company has submitted fraudulent tax reports? - Identify the Target/POI**

- Which individual(s) is responsible for this according to rules in your jurisdiction?**
- This/these person(s) may be liable**
  - **Problem: nominee/ straw man?**
- Also his advisors/accessories**
- More than one: Joint liability**



# Taxing Criminal Income





# Civil Claim for Damages and Bankruptcy

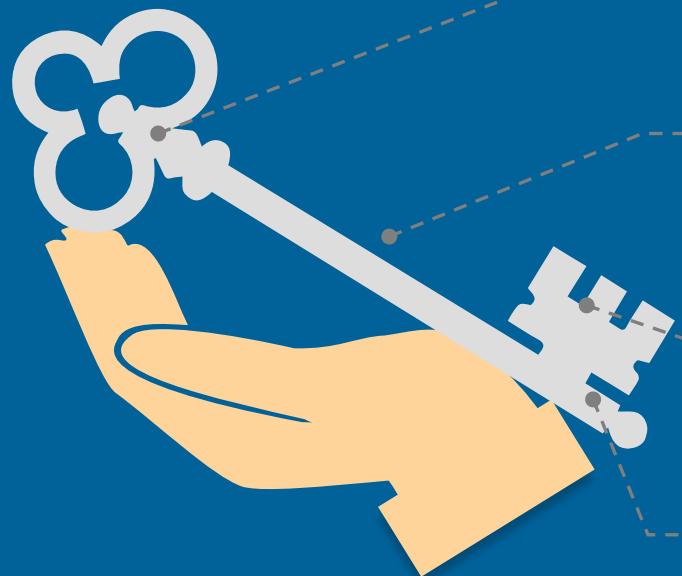
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- ❖ Your jurisdiction may have provisions to let the government sue individuals for damages
  
- ❖ Company is bankrupt
  - No money to pay the taxes?
  - Liability in negligence
    - Different types – culpable/willful



# Why focus on proceeds of crime?



- **Income for the government**
- **Future prevention of crime**

**Taking the money of the criminals upsets them/disrupts actual criminal activities and**

**Blocks further crime!**



# Any Questions????

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