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TAXATION OF DIGITAL PLATFORMS technological, economic and sociological insights

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Issues overview in the digital economy

- ✓ Taxation of the intangibles and digital economy raises many hurdles.
- ✓ Heavy reliance on tangible elements to attribute jurisdiction to tax
- ✓ Jurisdiction to prescribe on the Internet:
  - Presence of servers
  - Substantial economic presence
    - Doing business, workforce presence, advertising, etc.
  - URL use (very criticized, although see e.g. Belgium Constitutional court, decision n°129/2017: URL as a "place" not a trade name)
- ✓ Taxation of digital economy subject to important mobility of intangibles
- ✓ Traditional approach: value from tangible vs intangible
- ✓ Digital value creation benefits from networks effects
- ✓ OECD - BEPS – Action 1
  - Significant economic presence
  - Users-based factors (MAU, contract conclusions, data collected)
- ✓ European Commission: turnover of digitalised companies, withholding tax on digital transactions or advertising
- ✗ No consideration for social construction of digital platform intermediation systems

1. Platforms, Market Places and Collaborative economy

Collaborative economy platforms sell access to **a software** (or, more broadly, an algorithm) which enables the **matchmaking** between offer and demand for a single or a series of identified services, products or contents through a **digital community** system (created for instance by a bilateral rating or other forms of trust building mechanisms)

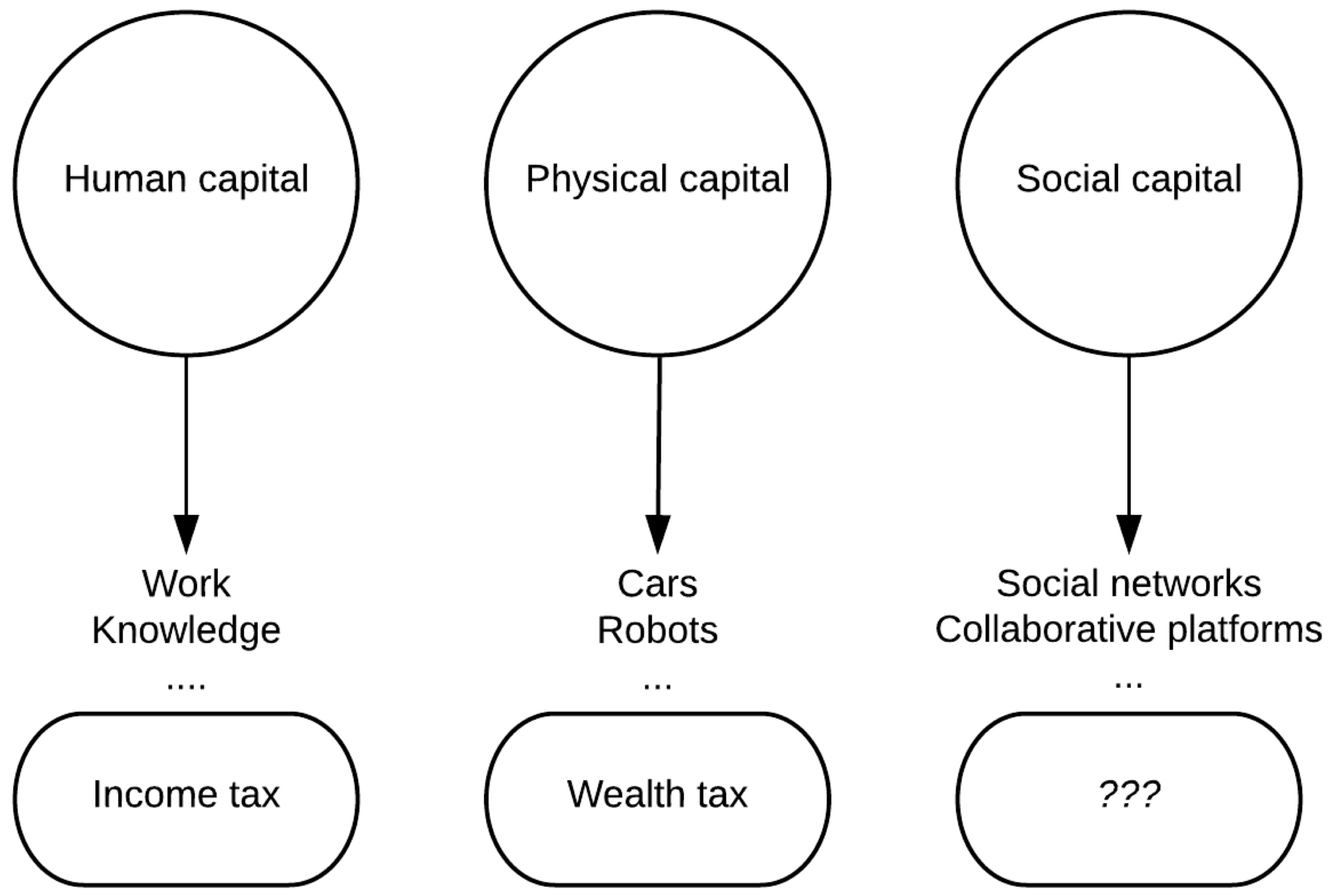
Tech.	Economic	Social	Qualification	Ex
x	x		Market place	Amazon
x		x	Social network	Facebook
	x	x	Sharing economy	Local tool library
x	x	x	Collaborative platforms	Airbnb

2. Value creation

- ✓ Three main sources of value: **physical capital, human capital, and social capital.**
- ✓ Social capital has a **value** (function of the transaction cost decrease – underexplored in legal scholarship)
- ✓ Social capital can provide a new **base for establishing the nexus**

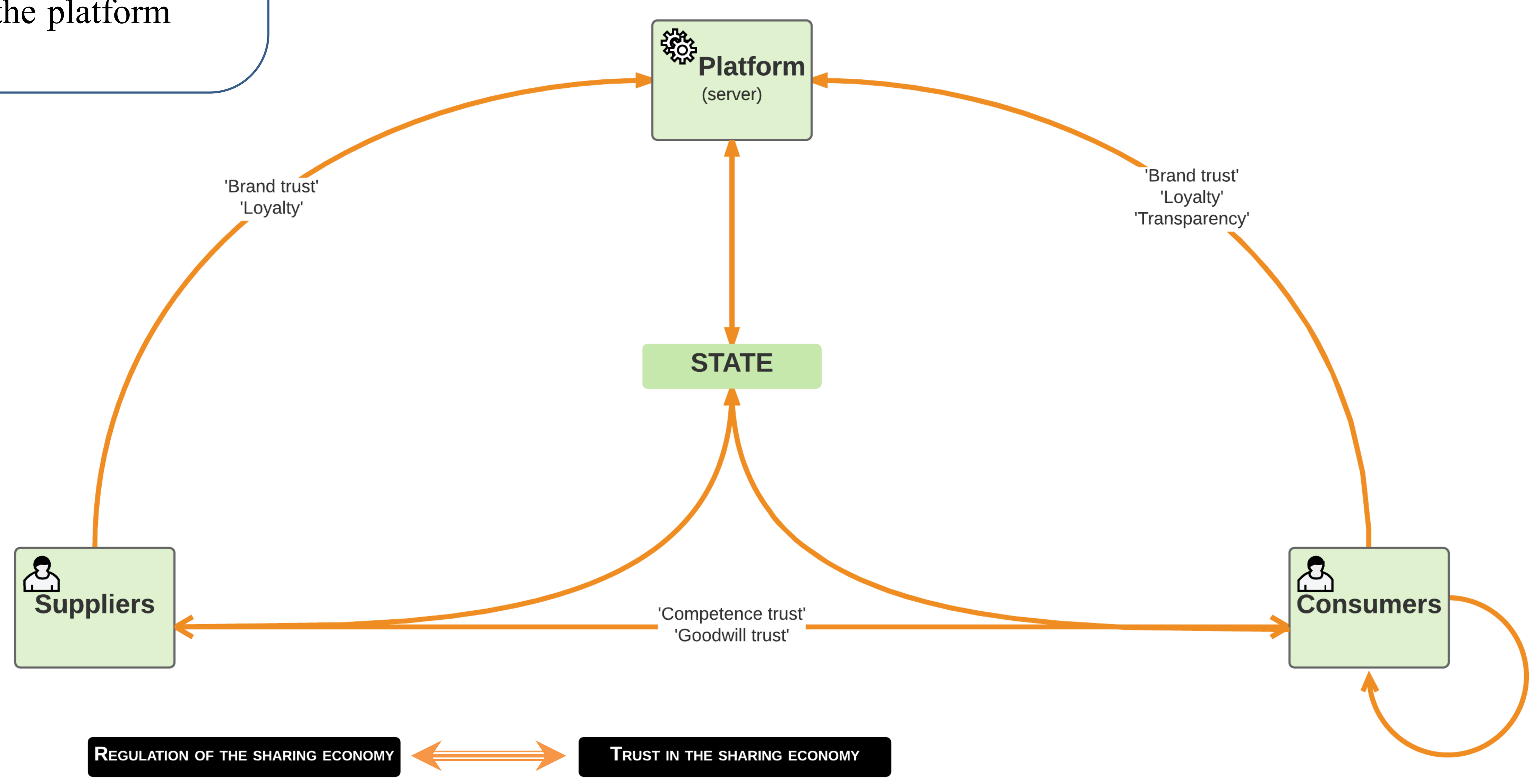
- ✓ Issue: Social capital does not diminish with use but with disuse
- ✓ Issue: Taxation of social capital might impact social interactions, and reduce them.

→ Need to only tax for *lack* of use & on *gains*



3. Digital platforms taxation

- ✓ **Hypothesis 1**: Revisiting ***corporate income tax*** principles (e.g. application of 'agency theory'?)
- ✓ **Hypothesis 2**: Equalization levy based on ***network effects***
- ✓ **Hypothesis 3**: Considering the *sociological* role of the platform for establishing an ***improved nexus***



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