Digital Economy

Mexican Approach



J.A. Del Río
Certified Public Accountants



Agenda

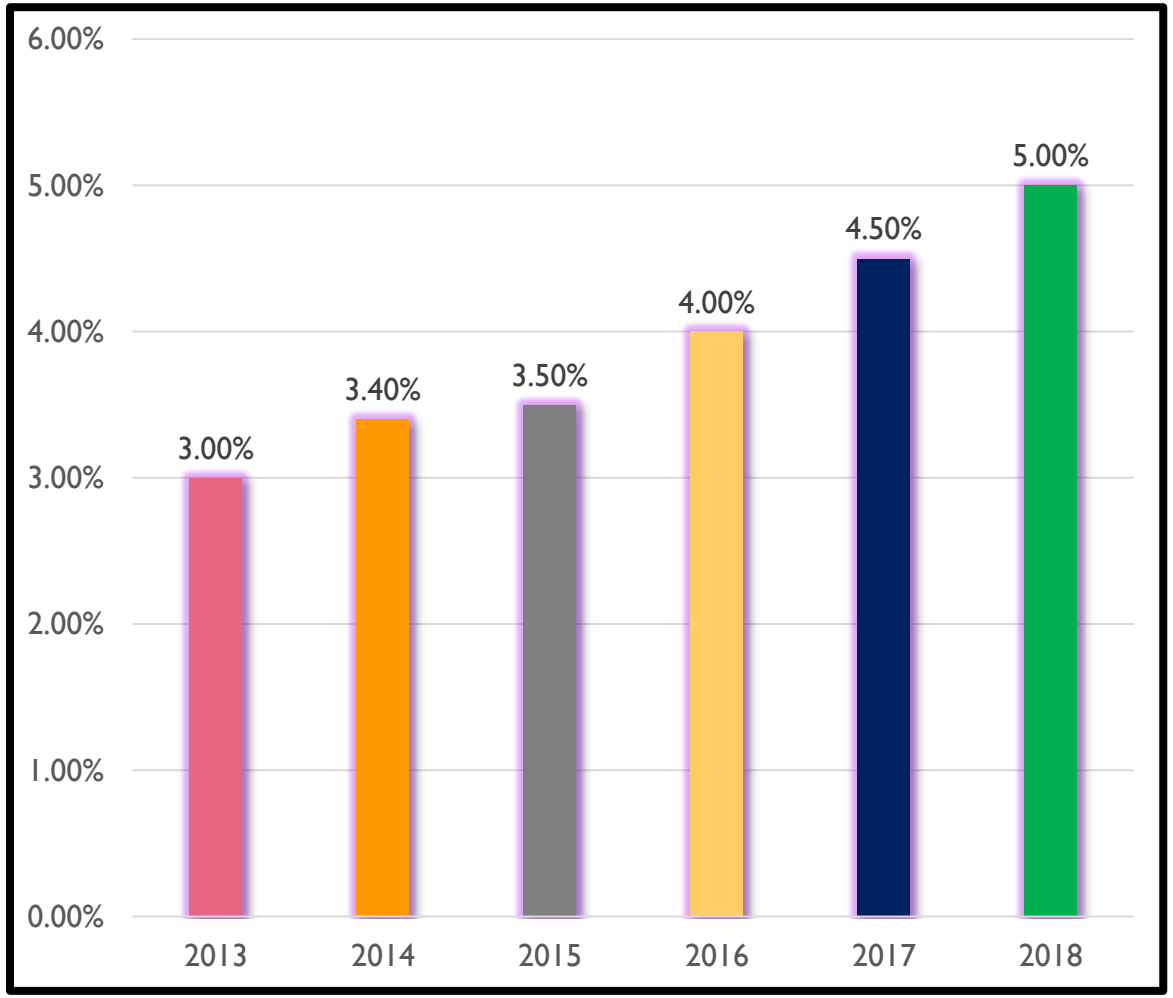
- General background.
  - OECD aspects;
  - Mexican Tax Reform insight;
- VAT on digital services
  - Digital services subject to VAT
  - Tax obligations for non-residents w/o Mexican PE rendering digital services:
- VAT and Income Tax on digital services
  - Digital services subject to VAT and income tax
  - Tax obligations for non-residents w/o Mexican PE rendering digital services acting as intermediaries
- Business Model Scenarios

E-commerce in the Mexican economic activity

E-commerce has grown rapidly, reaching 5% of Mexico's GDP in 2018.

- Its size is similar to other sectors such as:
  - Building
  - Food
  - Tobacco
- It is larger than other industries such as:
  - Chemical
  - Oil derivatives
  - Educational + cultural

Source: INEGI





BEPS Inspired Reform

Action 1 - Tax Challenges Arising from Digitalization

- Aim to address the tax challenges raised by digitalization.
  - Direct and indirect taxation
  - Broader tax policy issues
  - Tax administration

Mexican Tax Reform

- Published in December 2019, effective as of January 2020, unless otherwise provided.
- VATL and MITL were modified to include digital economy rules for non-Mexican residents:
  - Digital services providers (B2C) → **VAT obligations.**
  - Digital service providers acting as intermediaries (C2C) → **VAT and income tax obligations.**

In between BEPS 1.0 and BEPS 2.0

BEPS 1.0

- The 15 final BEPS reports published in 2015 by the OCDE.
  - Led to many changes to the international tax rules to limit profit shifting.
  - Authorities believed that it did not yet adequately address the challenges of the digitalization of the economy.

BEPS 2.0 - Introduces measures to ensure a global minimum level of taxation

- Arisen from the discussions leading from the 2015 BEPS reports, particularly on Action 1 which recognized that digitalization and the business models it brings, present challenges for international taxation.
- Two pillars:
  - Pillar one - Re-allocation of taxing rights
  - Pillar two - Global anti-base erosion mechanism

OECD's work on BEPS 2.0 are underway, and expected to continue through 2020, where consensus is expected towards the end of 2020

Unilateral actions would harm investment and economic growth.



Digital Economy

Digital services subject to tax in Mexico:

Rendering of services through applications or digital content over the Internet or other network, mainly automated, may require minimal human intervention, in exchange for a consideration.

Destination principle for consumers:

- Domiciled in Mexico;
- Intermediary located in Mexico;
- IP address located in Mexico; or
- Mexican phone number.

VAT on digital services

Digital Economy

Digital services subject to VAT:

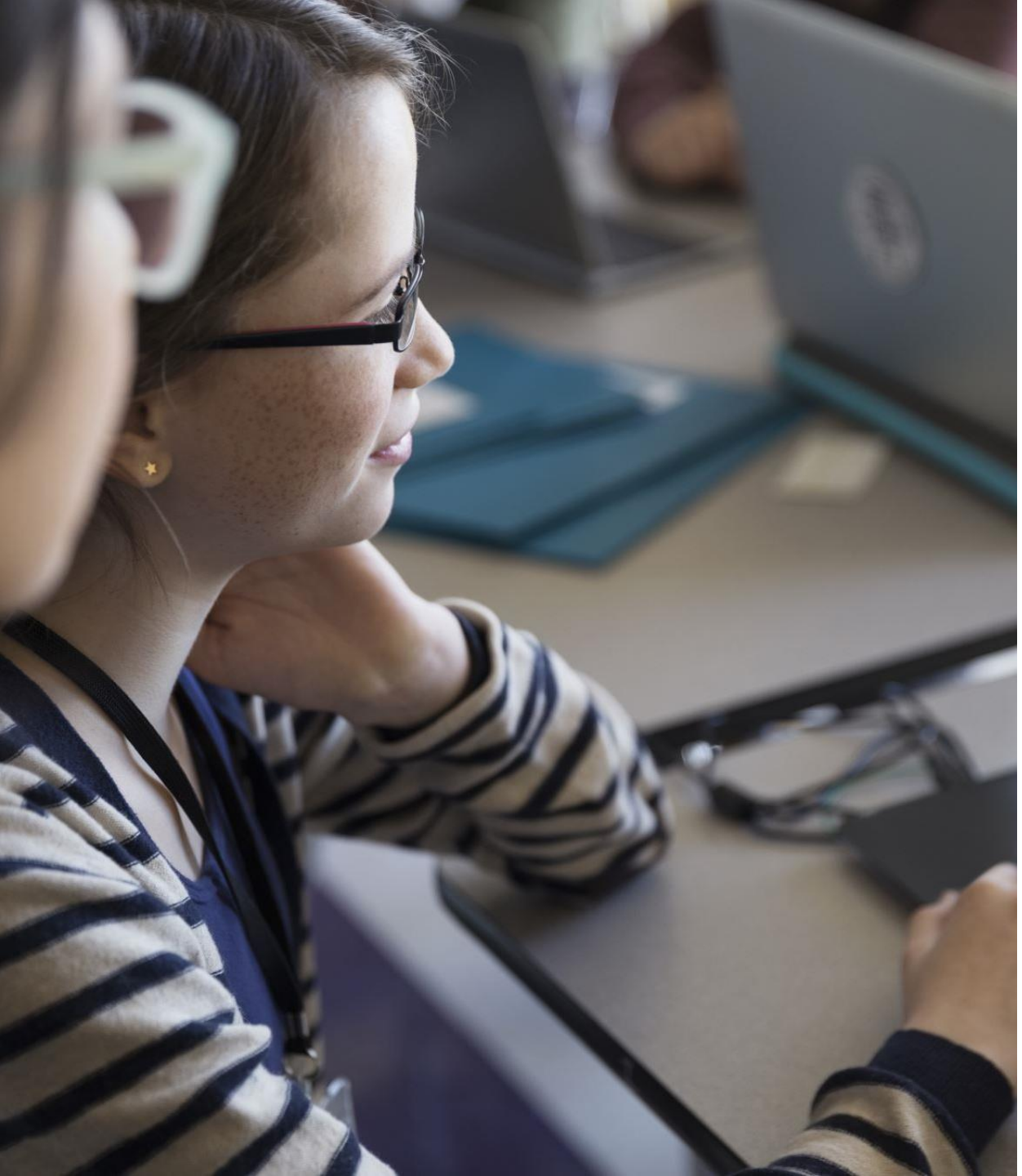
1. Download or access to:

- Pictures,
- Movies,
- Text,
- Information,
- Video, audio, music,
- Games, including gambling, as well as other multimedia content,
- Multiplayer environments,
- Mobile ringtones,
- Online news viewing (except books, newspapers and electronic magazines),
- Traffic information,
- Weather forecasts and statistics:

2. Online clubs and dating pages

3. Distance learning or test or exercise





Digital Economy

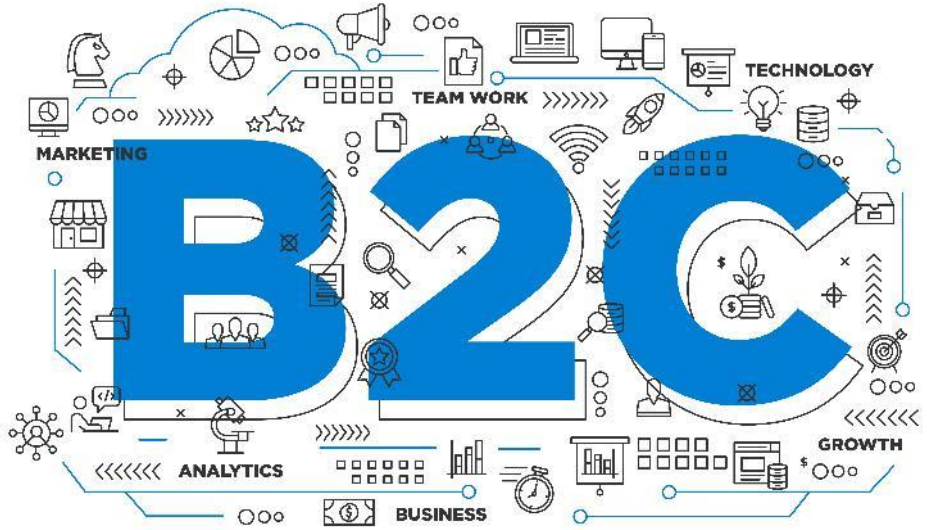
Tax obligations for non-residents w/o Mexican PE rendering digital services:

- Taxpayer ID, appoint legal representative and tax domicile in Mexico.
  - Lack of registration shift burden on users (importation of services).
- Collect the price plus 16% VAT.
- Quarterly informative return.
    - User records and monthly collections.
- Electronic invoices with VAT details, at the request of the user.
- Compliance does not create Mexican PE.

Digital Economy

Tax obligations for non-residents w/o Mexican PE rendering digital services:

- The VAT collected should be paid through the *"VAT return for the provision of digital services".*
  - No later than the 17th day of the following month in which the VAT was collected.
- The obligation to file the quarterly VAT informative return will be considered as having been satisfied with the filing of the *"VAT return for the provision of digital services"*.

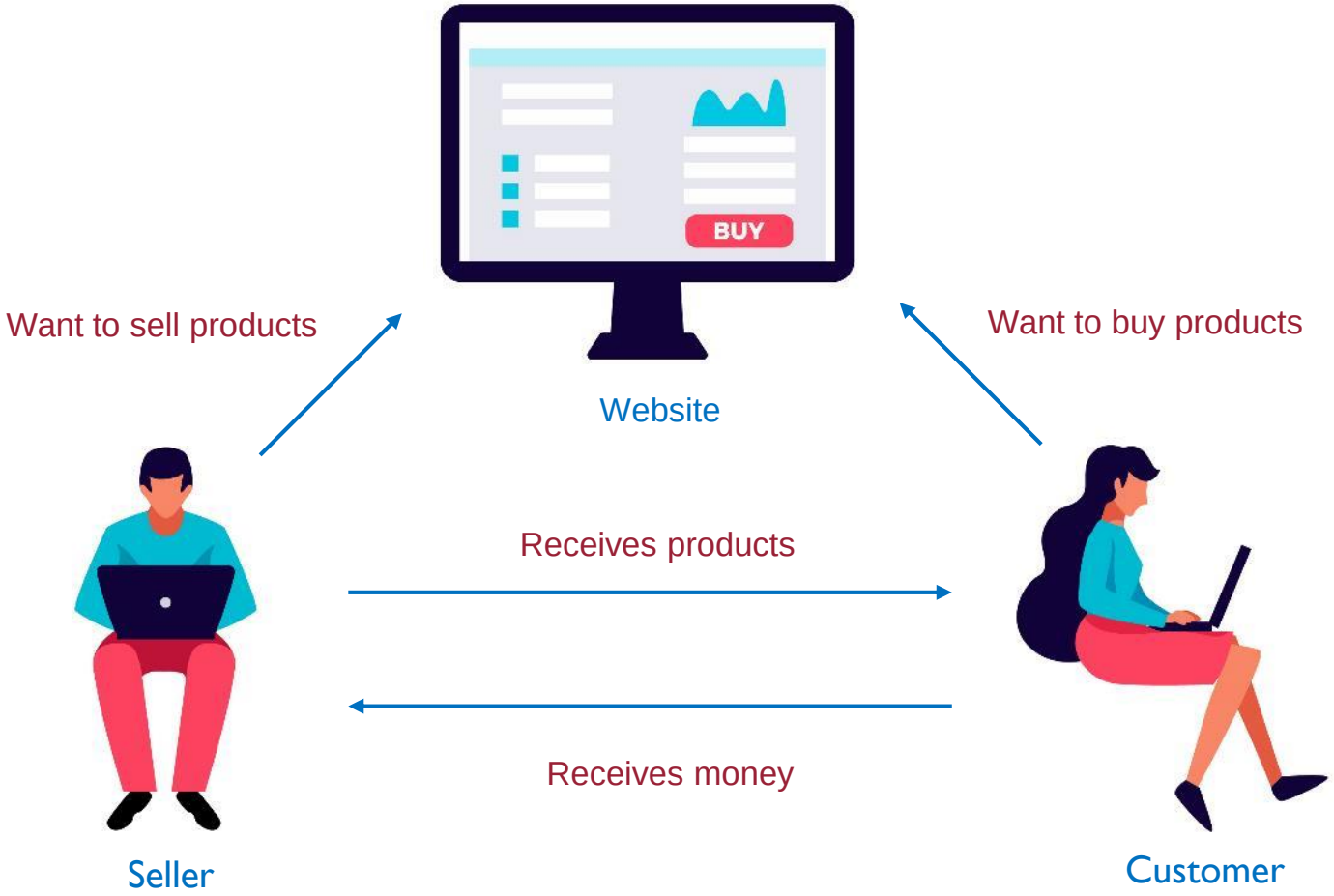


VAT and Income Tax on digital services

Digital Economy

Digital services subject to VAT and Income Tax rules:

Intermediation with third parties offering goods or services and the users thereof (except used movable goods).

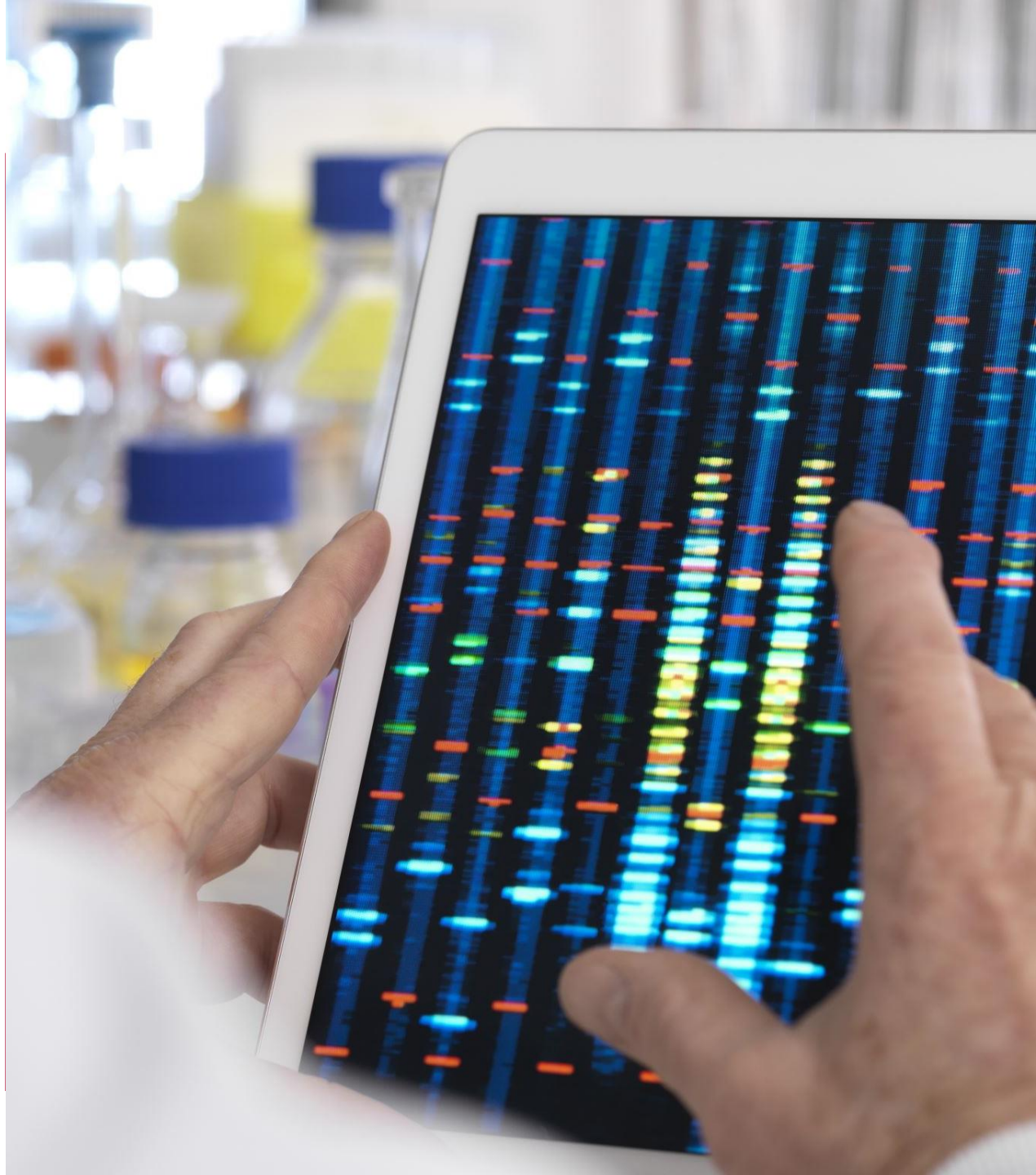


Digital Economy

Tax obligations for non-residents w/o Mexican PE acting as intermediaries:

- Tax registration as withholding agent.
- Publish prices and VAT separately on goods or services offered.
- Withholding 8% VAT to individuals, monthly payment and electronic invoices (16% w/o tax ID).
- Monthly Information return of VAT customers.

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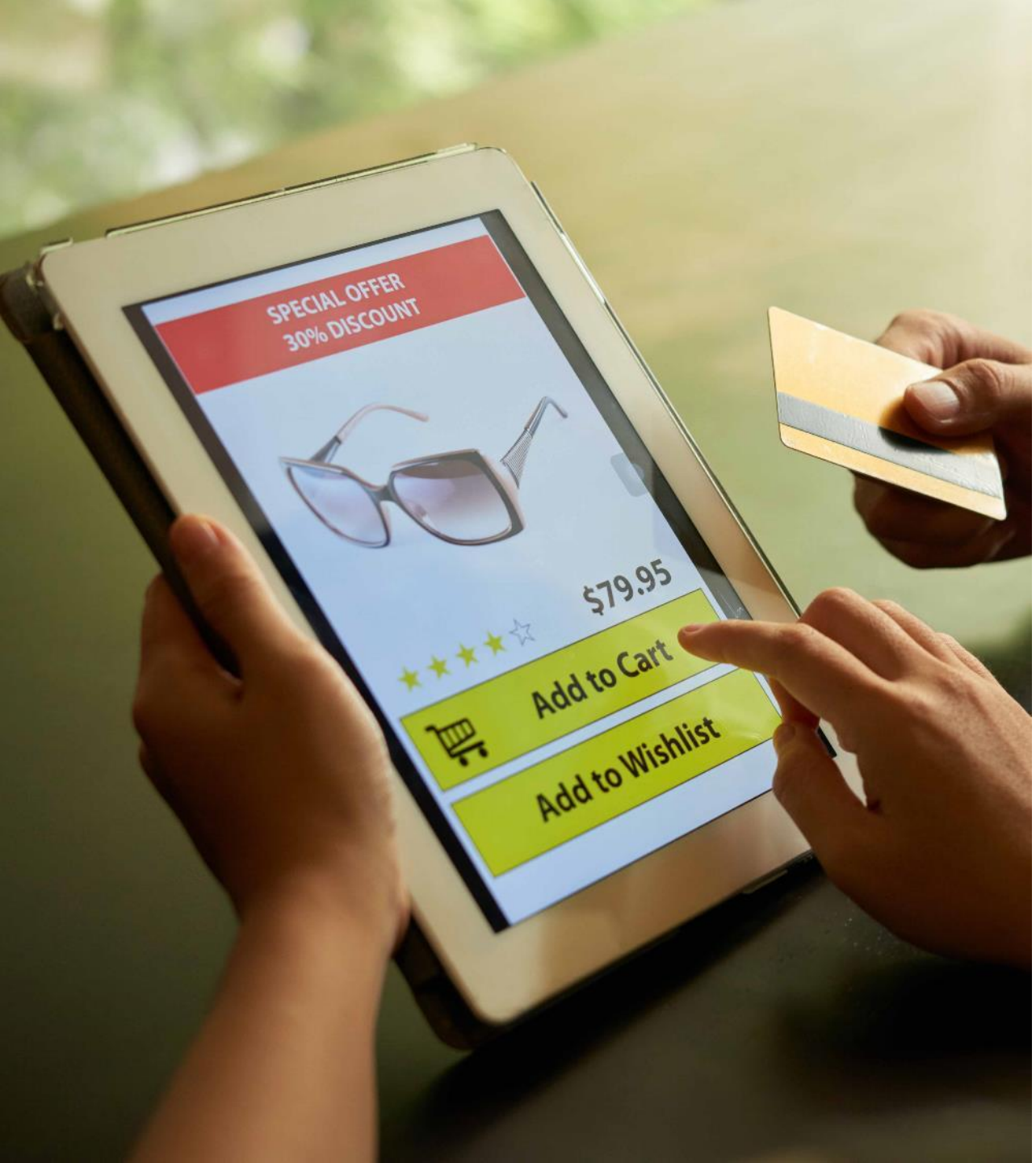


Tax obligations for non-residents w/o Mexican PE acting as intermediaries

Value Added Tax

- The VAT WHT should be paid through the *“VAT withholdings return for technological platforms”,* no later than the 17th day of the following month in which the WHT is made.
- VAT informative return containing information about their customers who sell goods, provide services or grant the temporary use or enjoyment of goods, even if they have not collected the sales price and VAT, should be filed through the *“Informative return of digital intermediation services between third parties*”, no later than the 10th day of the following month to which the information corresponds.





Tax obligations for non-residents w/o Mexican PE acting as intermediaries

Income Tax

- May calculate the income tax WHT on a daily basis.
- The WHT would be applied to the daily income.
- The WHT should be paid through the “Income tax withholdings return for technological platforms” no later than the 17th day of the following month in which the WHT is made.



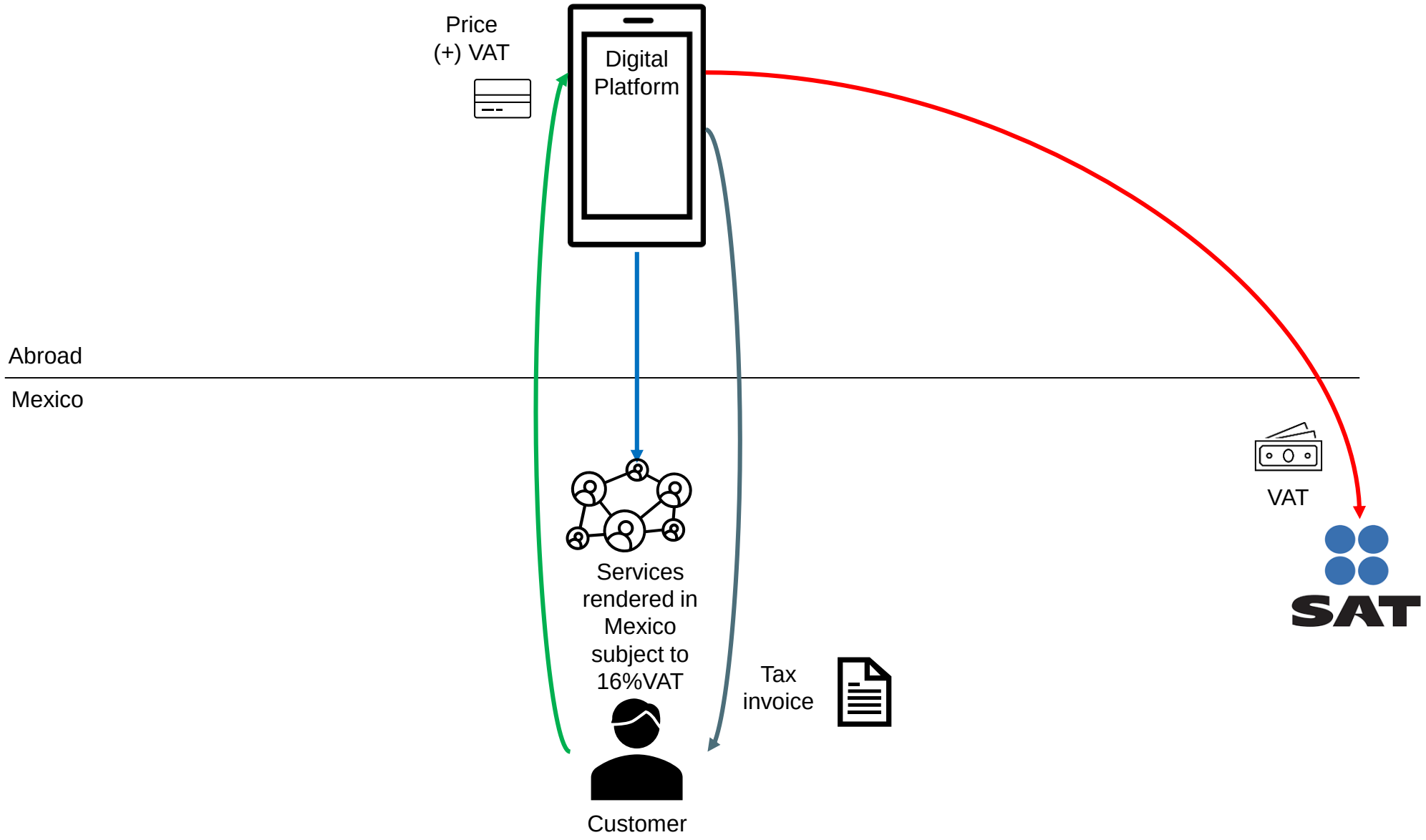
Taxation for Mexican individuals

- Income derived from the sale of goods or rendering of services.
  - Internet, technologic platforms, applications or equivalent.
- Withholding obligation for:
  - Mx entities and non-residents w/wo Mexican PE.
  - Obliged to get Mexican taxpayer ID.
- Electronic invoices and VAT information return.
- Income Tax for individuals
  - Tax credit – Determined at progressive rates.
  - 20% with no information.
  - Final payment (tax notice) exception:
    - Income previous year > US$15,000 or different from salaries and interests.
- Effective as of June 1st 2020
- Administrative rules

Business model Scenarios (B2C)

- Download or access….
- Online clubs and dating pages
- Distance learning or test or exercise

Case 1


Price
(+) VAT
Digital Platform
Abroad
Mexico
VAT
SAT
Services rendered in Mexico subject to 16%VAT
Tax invoice
Customer

Business model Scenarios (C2C)

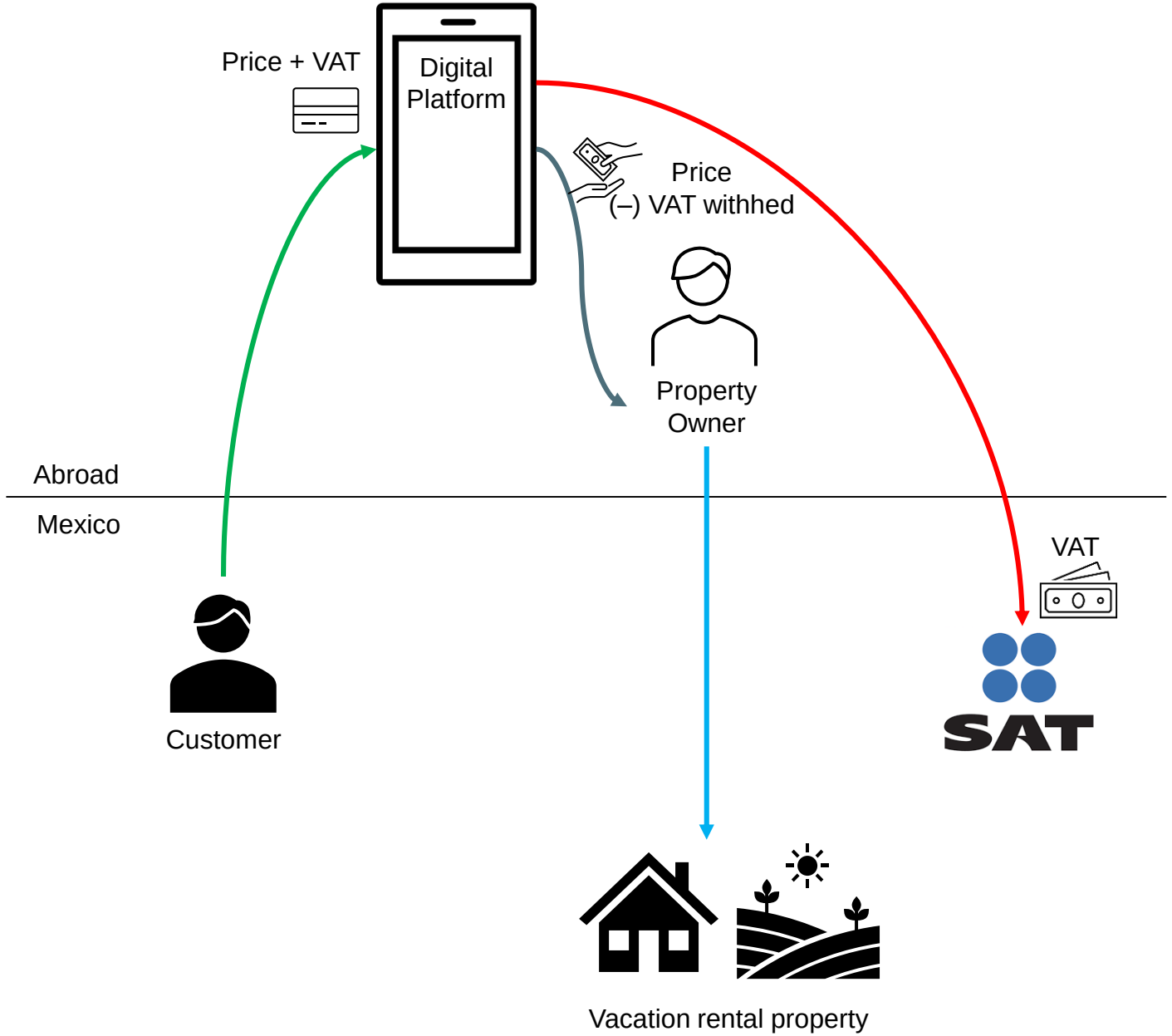
Lodging services through digital platforms

Case 1

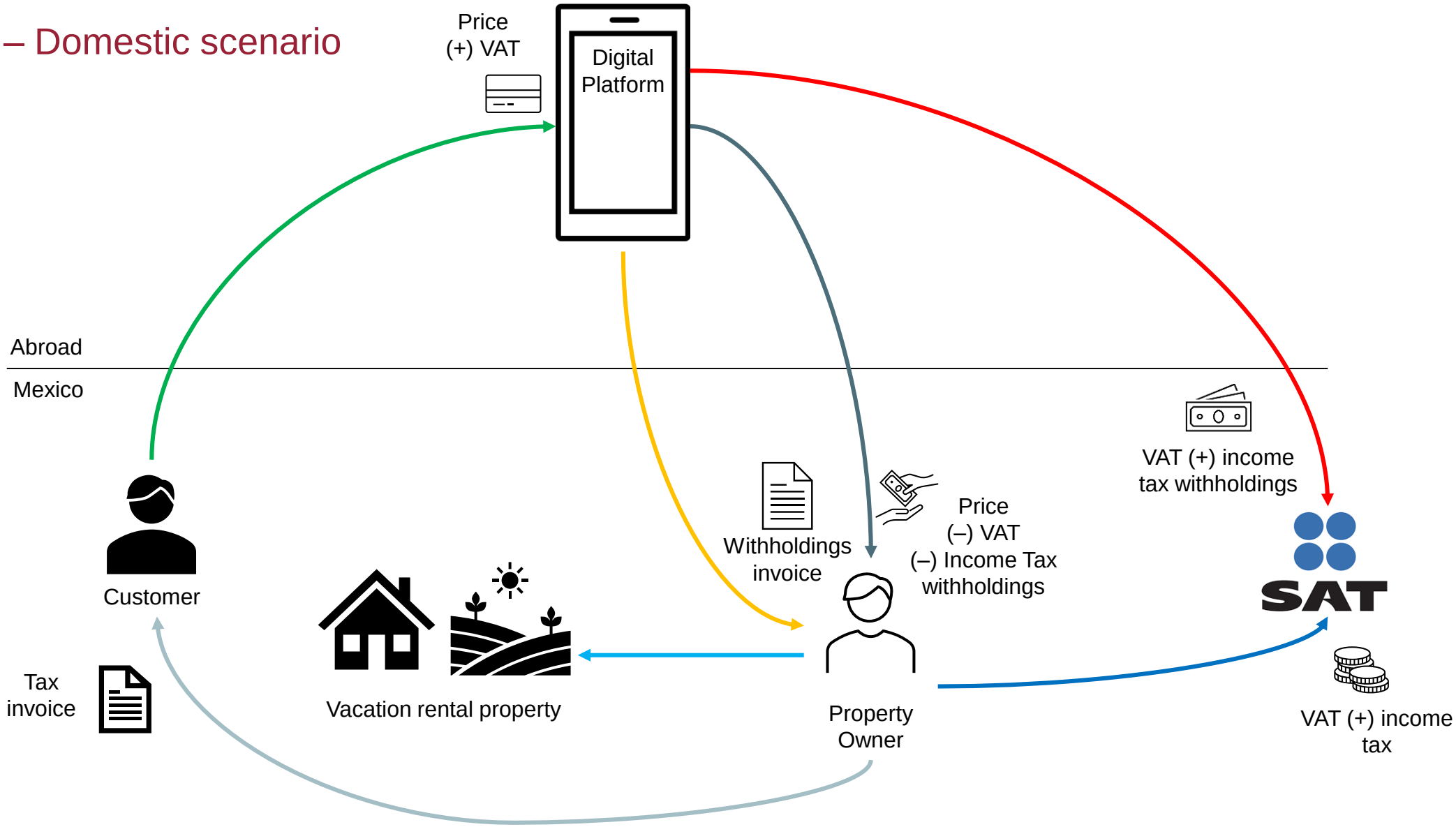
Income derived from rendering lodging services through digital platforms.

Background

- Vacation rental property located in Mexico.
- The rental property is owned by a non-Mexican resident.
- The rental property is rented through a platform.

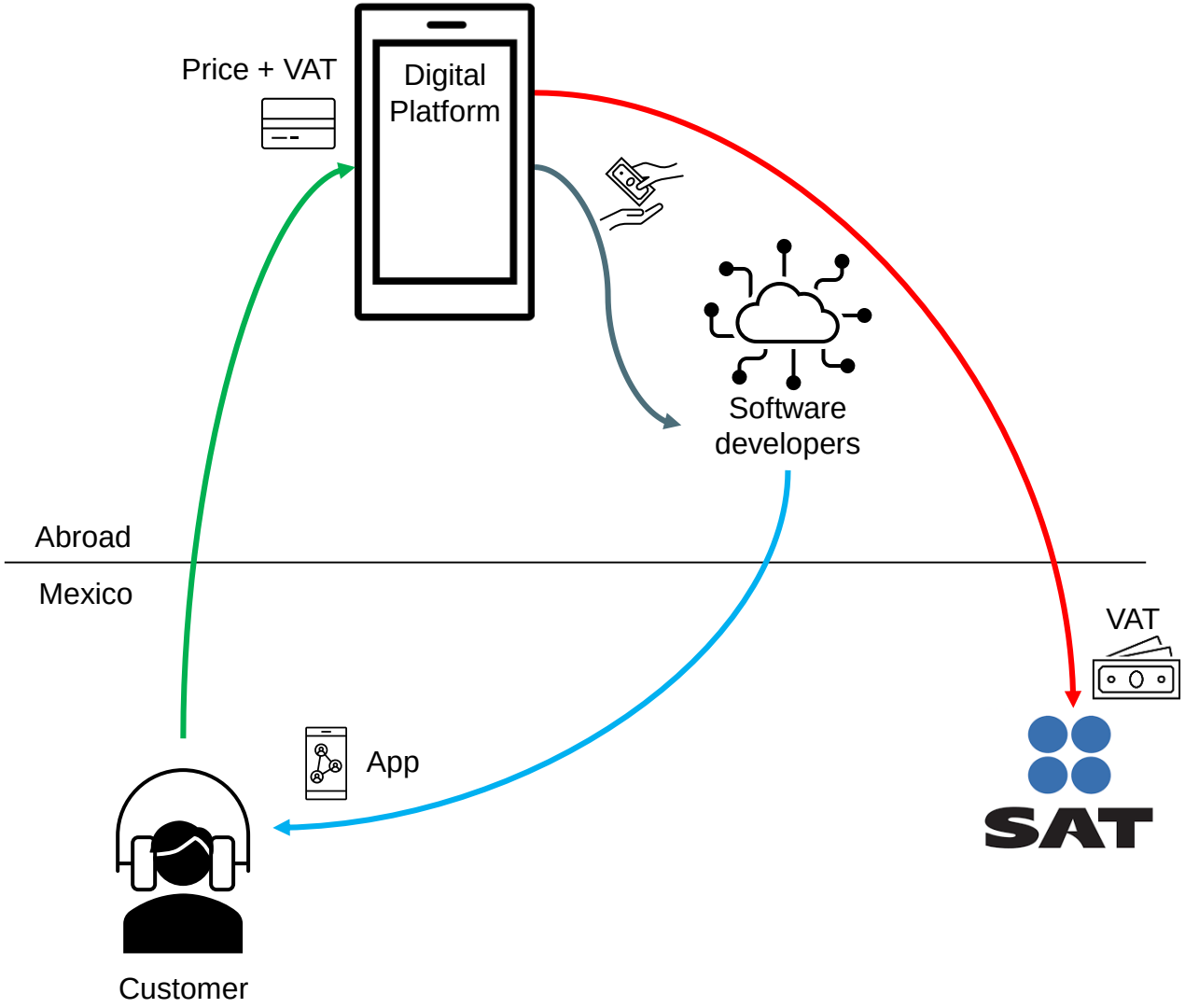


Case 1 – Domestic scenario



Business model Scenarios (C2C)

Intangible sales through digital platforms



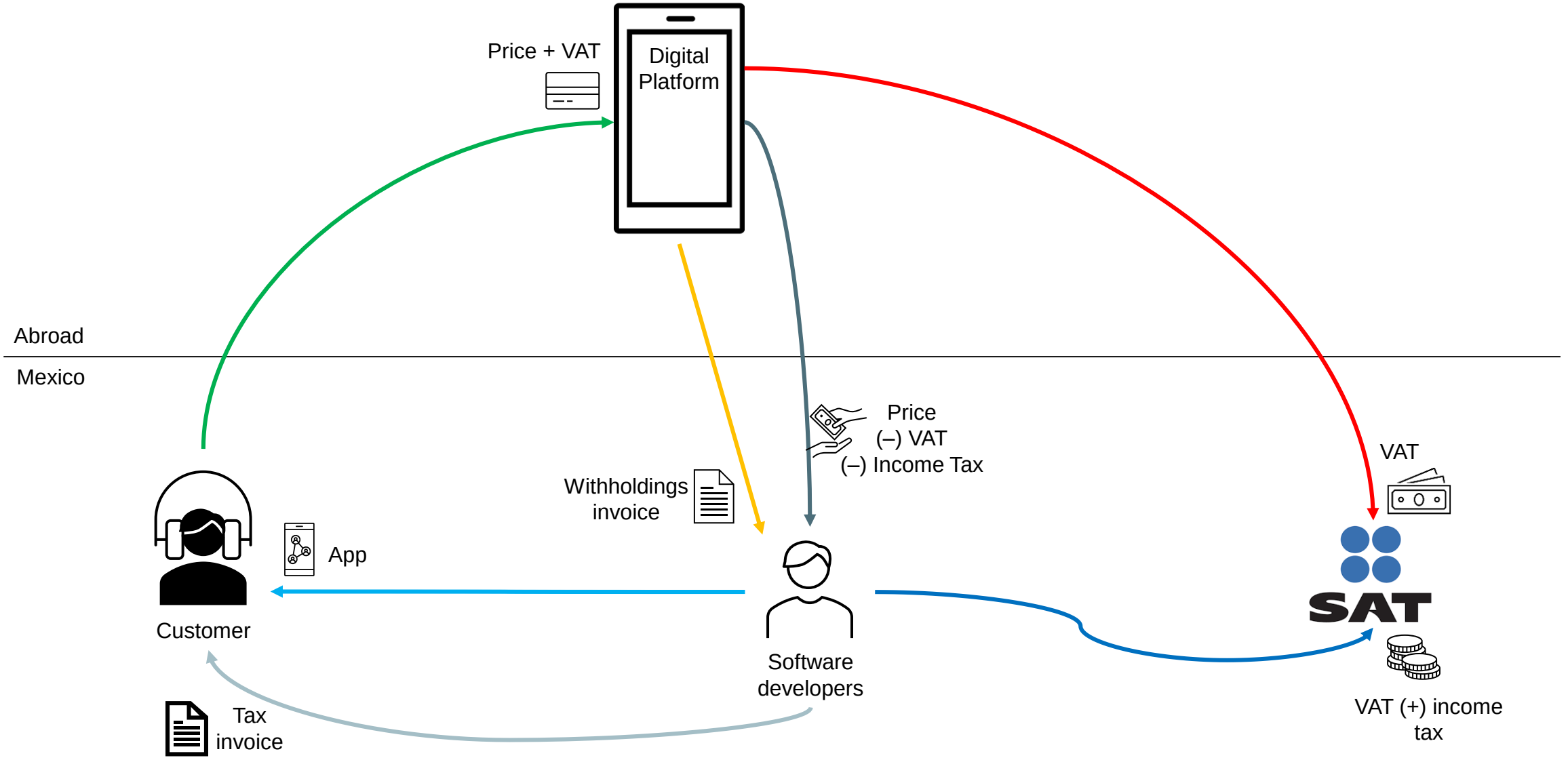
Case 2

Income derived from the sale of intangibles through digital platforms.

Background

- Customers located in Mexico.
- No activity or PE in Mexico different from intangibles sales.
- Intangibles owned by non-Mexican resident technology companies/individuals.
- The Apps are commercialized through a digital platform.

Case 2 – Domestic scenario



Business model Scenarios (C2C)

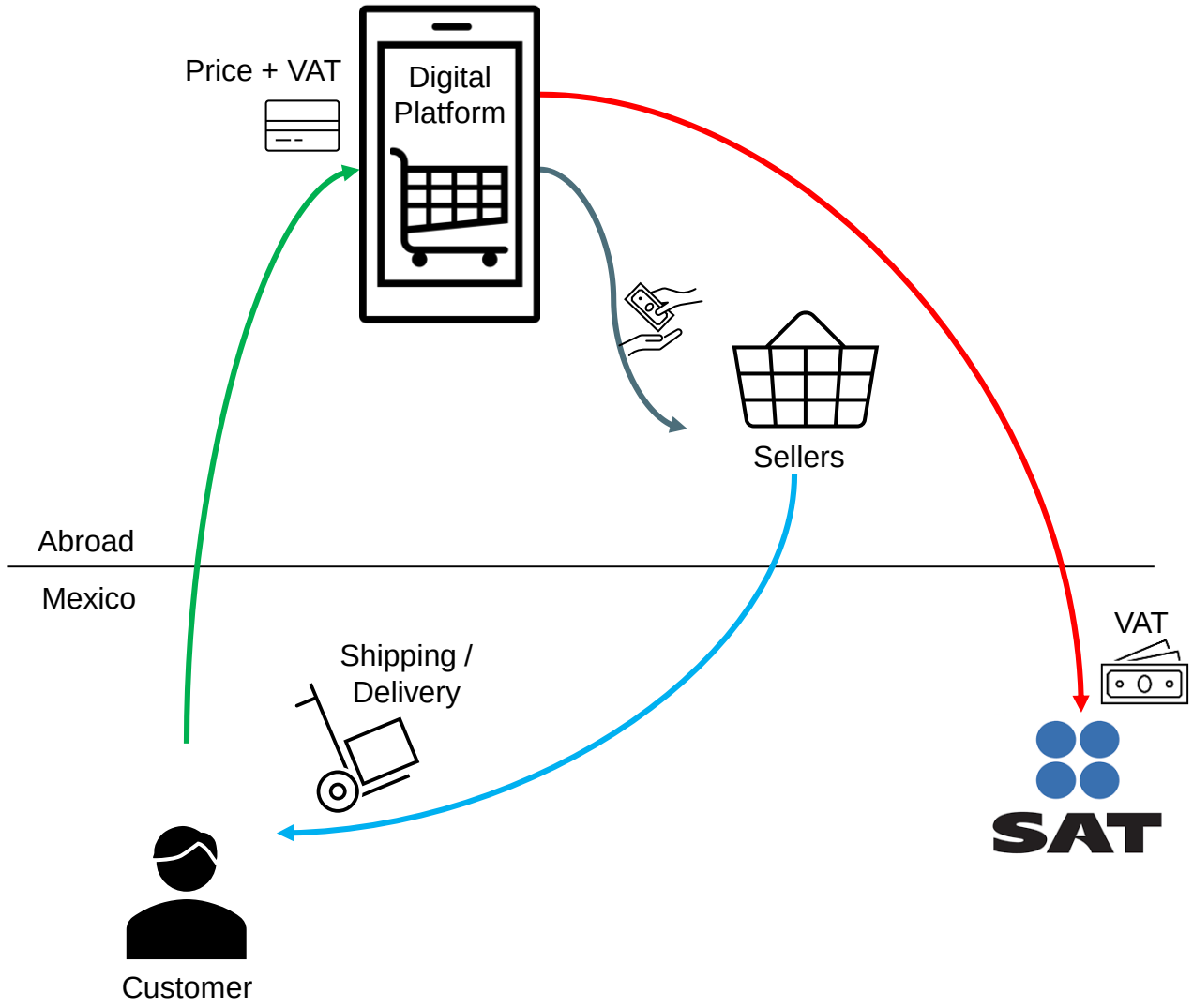
Sales of tangible goods through digital platforms

Case 3 – Scenario A

Income derived from the sale of tangibles through digital platforms.

Background

- Customers located in Mexico.
- No activity or PE in Mexico other than the sale of tangible goods.
- Intangibles owned by non-Mexican resident.
- The merchandises are commercialized through a digital platform.

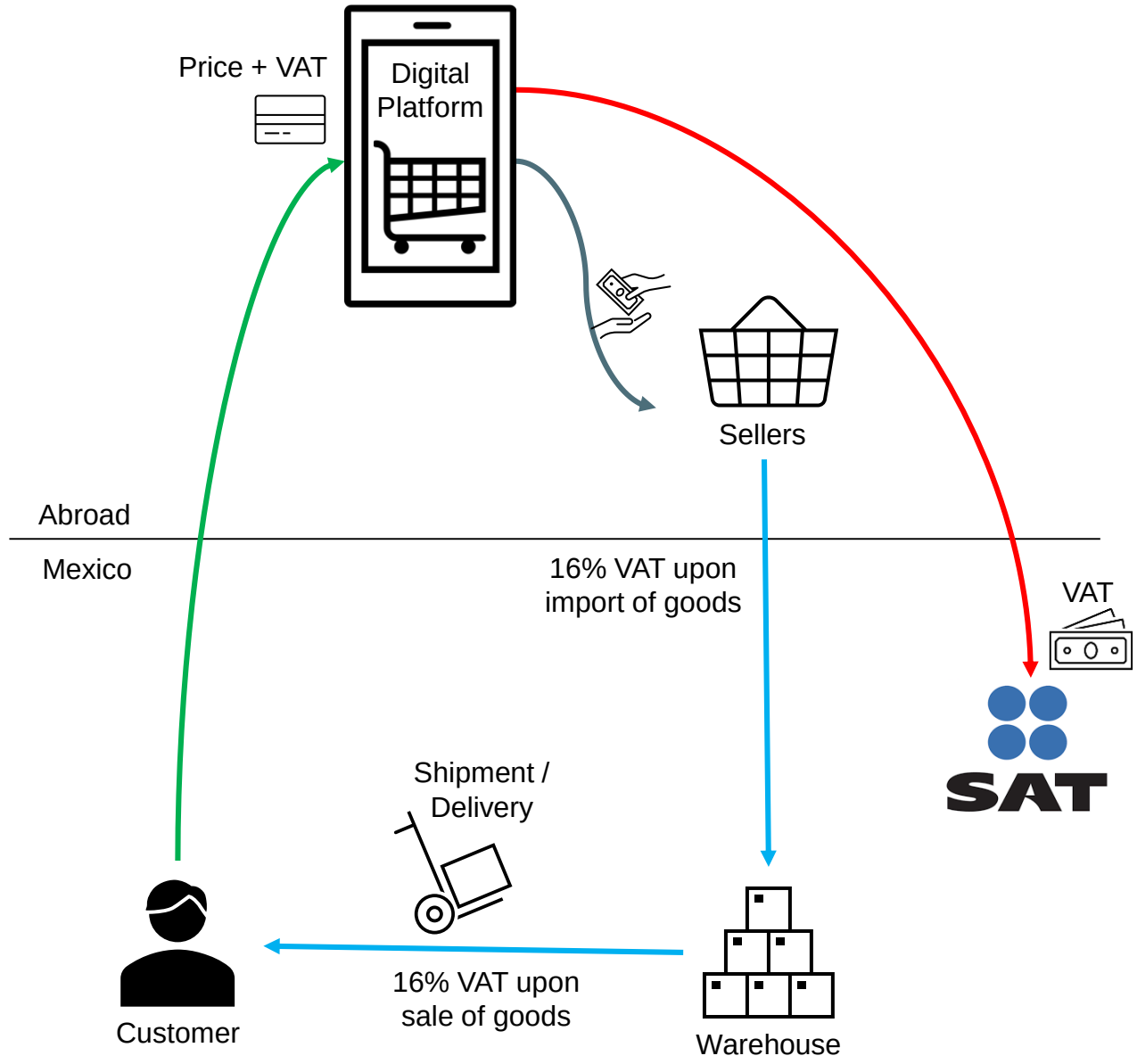


Case 3 – Scenario B

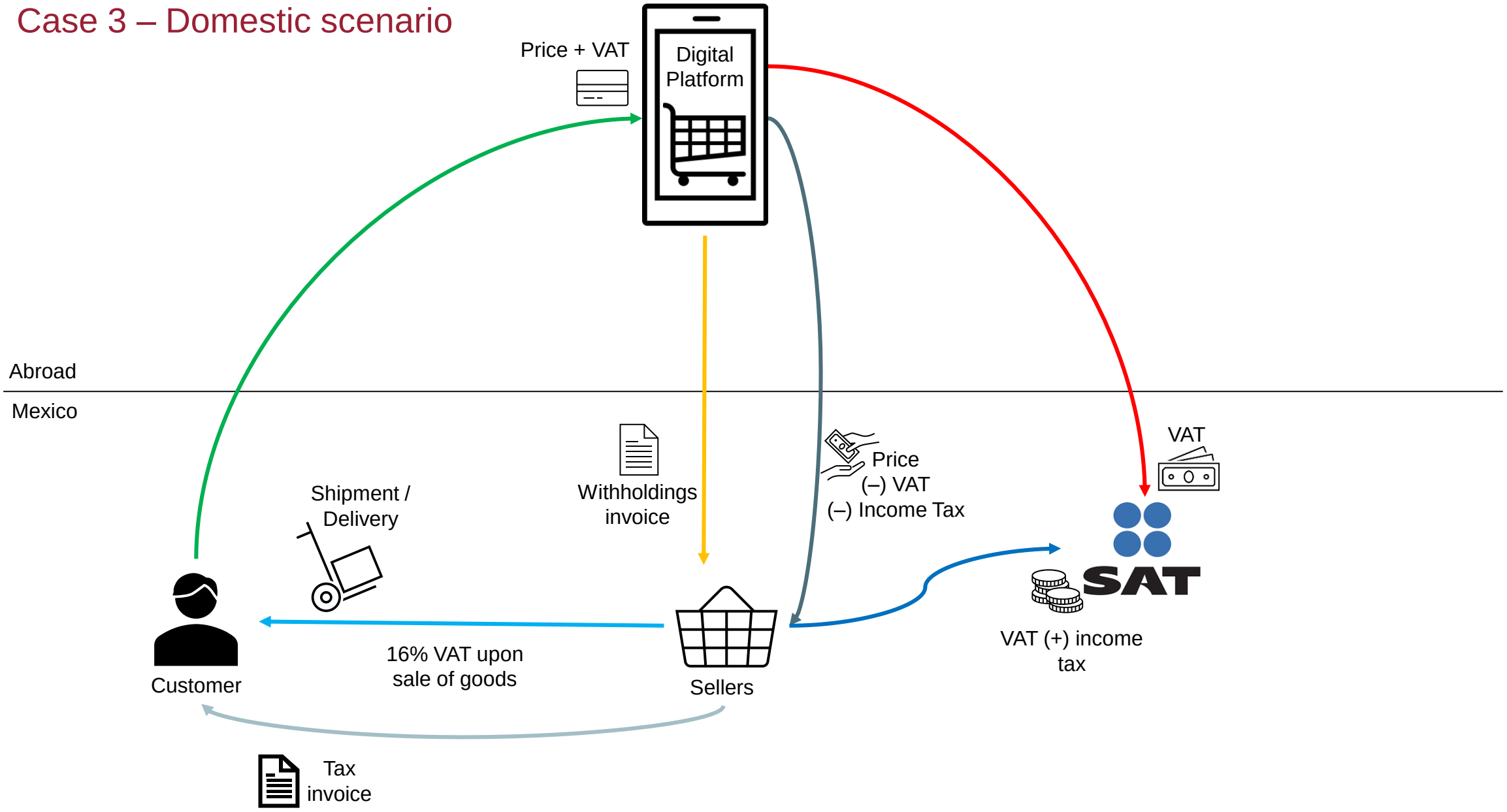
Income derived from the sale of tangibles through digital platforms.

Background

- Customers located in Mexico.
- No activity or PE in Mexico other than the sale of tangible goods.
- Tangible goods owned by non-Mexican resident.
- The merchandises are commercialized through a digital platform.



Case 3 – Domestic scenario





Q&A

Contact

Bernardo Del Río, Managing Partner
badelrio@jadelrio.com

Victor Ramos, Tax Director
victor.ramos@jadelrio.com

Renata Aguilar, Tax Manager
renata.aguilar@jadelrio.com

www.jadelrio.com

