

Case C-540/09

Skandinaviska Enskilda Banken AB Momsgrupp

v

Skatteverket

(Reference for a preliminary
ruling from the Regeringsrätten)

(Reference for a preliminary ruling — Sixth VAT Directive — Article 13B(d)(5) —
Exemptions — Underwriting guarantee provided against payment of a commission
by credit institutions to the issuing companies in respect of a share issue on the
capital markets — Transactions in securities)

Opinion of Advocate General Jääskinen delivered on 16 December 2010 . . . I - 1511
Judgment of the Court (Fourth Chamber), 10 March 2011 I - 1525

Summary of the Judgment

*Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added
tax — Exemptions provided for in the Sixth Directive — Transactions involving instruments
referred to in Article 13B(d)(5)*

(Council Directive 77/388, Art. 13B(d)(5))

Article 13B(d)(5) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes must be interpreted as meaning that the exemption from VAT laid down therein covers services supplied by a credit institution, for consideration, in the form of an underwriting guarantee to a company wishing to issue

shares, when under that guarantee the credit institution undertakes to acquire any shares not subscribed within the period for share subscription.

(see para. 38, operative part)